



# भारत का राजपत्र The Gazette of India

सी.जी.-डी.एल.-सा.-05082021-228733  
CG-DL-W-05082021-228733

प्राधिकार से प्रकाशित  
PUBLISHED BY AUTHORITY  
साप्ताहिक  
WEEKLY

---

सं. 26] नई दिल्ली, जुलाई 18—जुलाई 24, 2021 शनिवार/ आषाढ़ 27—श्रावण 2, 1943  
No. 26] NEW DELHI, JULY 18—JULY 24, 2021, SATURDAY/ASHADHA 27—SRAVANA 2, 1943

---

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके  
Separate Paging is given to this Part in order that it may be filed as a separate compilation

---

भाग II—खण्ड 3—उप-खण्ड (ii)  
PART II—Section 3—Sub-section (ii)

---

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं  
Statutory Orders and Notifications Issued by the Ministries of the Government of India  
(Other than the Ministry of Defence)

---

विदेश मंत्रालय

(पी.ए.-I अनुभाग)

नई दिल्ली, 7 जुलाई, 2021

**का.आ. 465**—उत्प्रवासन अधिनियम, 1983 (1983 का 31) की धारा 15 (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, विदेश मंत्रालय, भारत सरकार में संयुक्त सचिव एवं उत्प्रवासी महासंरक्षक श्री टी. आर्मस्ट्रांग चांगसां को एतद्वारा 06 जुलाई, 2021 (पूर्वाह्न) से अगले आदेशों तक सक्षम प्राधिकारी के रूप में नियुक्त करती है।

[फा. सं. क्यू/पीए-1/22/2021]

सलोनी सहाय, अवर सचिव (एफएसपी तथा संवर्ग)

## MINISTRY OF EXTERNAL AFFAIRS

## (PA-I Section)

New Delhi, the 7th July, 2021

**S.O. 465.**—In exercise of the powers conferred by Section 15 (1) of the Emigration Act, 1983 (31 of 1983), the Central Government hereby appoints Shri T. Armstrong Changsan, Joint Secretary and Protector General of Emigrants, in the Ministry of External Affairs, Government of India as the Competent Authority with effect from 06 July 2021 (Forenoon) till further orders.

[F. No. Q/PA-I/22/2021]

SALONI SAHAI, Under Secy. (FSP &amp; Cadre)

नई दिल्ली, 7 जुलाई, 2021

**का.आ. 466.**—उत्प्रवासन अधिनियम, 1983 (1983 का 31) की धारा 9 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, विदेश मंत्रालय, भारत सरकार में संयुक्त सचिव एवं उत्प्रवासी महासंरक्षक श्री टी. आर्मस्ट्रांग चांगसां को एतद्वारा 06 जुलाई, 2021 (पूर्वाह्न) से अगले आदेशों तक पंजीयन प्राधिकारी के रूप में नियुक्त करती है।

[फा. सं. क्यू/पीए-1/21/2021]

सलोनी सहाय, अवर सचिव (एफएसपी तथा संवर्ग)

New Delhi, the 7th July, 2021

**S.O. 466.**—In exercise of the powers conferred by Section 9 of the Emigration Act, 1983 (31 of 1983), the Central Government hereby appoints Shri T. Armstrong Changsan, Joint Secretary and Protector General of Emigrants, in the Ministry of External Affairs, Government of India as the Registering Authority with effect from 06 July 2021 (Forenoon) till further orders.

[F. No. Q/PA-I/21/2021]

SALONI SAHAI, Under Secy. (FSP &amp; Cadre)

नई दिल्ली, 7 जुलाई, 2021

**का.आ. 467.**—उत्प्रवासन अधिनियम, 1983 (1983 का 31) की धारा 3, उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, विदेश मंत्रालय, भारत सरकार में संयुक्त सचिव श्री टी. आर्मस्ट्रांग चांगसां को एतद्वारा 06 जुलाई, 2021 (पूर्वाह्न) से अगले आदेशों तक उत्प्रवासी महासंरक्षक नियुक्त करती है।

[फा. सं. क्यू/पीए-1/20/2021]

सलोनी सहाय, अवर सचिव (एफएसपी तथा संवर्ग)

New Delhi, the 7th July, 2021

**S.O. 467.**—In exercise of the powers conferred by Section 3, Sub Section (1) of the Emigration Act, 1983 (31 of 1983), the Central Government hereby appoints Shri T. Armstrong Changsan, Joint Secretary in the Ministry of External Affairs, Government of India as the Protector General of Emigrants with effect from 06 July 2021 (Forenoon) till further orders.

[F. No. Q/PA-I/20/2021]

SALONI SAHAI, Under Secy. (FSP &amp; Cadre)

नई दिल्ली, 9 जुलाई, 2021

**का.आ. 468.**—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, केंद्र सरकार भारत के प्रधान कौंसलावास, केप टाउन में श्री नीरज खत्री, सहायक अनुभाग अधिकारी और श्री सुरेंद्र कुमार, वैयक्तिक सहायक को दिनांक 09 जुलाई 2021 से सहायक कौंसुलर अधिकारी के तौर पर कौंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[फा. सं. टी-4330/01/2021]

विष्णु कुमार शर्मा, निदेशक (सी.पी.वी.)

New Delhi, the 9th July, 2021

**S.O. 468.**—In pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri Neeraj Khatri and Shri Surendra Kumar as Assistant Consular Officer in the Consulate General of India, Cape Town to perform the Consular services with effect from 09 July 2021.

[F. No.T-4330/01/2021]

VISHNU KUMAR SHARMA, Director (CPV)

नई दिल्ली, 12 जुलाई, 2021

**का.आ. 469.**—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश। एतद्वारा, केंद्र सरकार भारत के प्रधान कौंसलावास, जेद्दाह में श्री किशन सिंह, निजी सहायक को दिनांक 12 जुलाई, 2021 से सहायक कौंसुलर अधिकारी के तौर पर कौंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[फा. सं. टी-4330/01/2015]

विष्णु कुमार शर्मा, निदेशक (सी.पी.वी.)

New Delhi, the 12th July, 2021

**S.O. 469.**—In pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri Kishan Singh, Personal Assistant as Assistant Consular Officer in Consulate General of India, Jeddah to perform the Consular services with effect from 12 July, 2021.

[F. No.T-4330/01/2015]

VISHNU KUMAR SHARMA, Director (CPV)

**कोयला मंत्रालय**

नई दिल्ली, 1 जुलाई, 2021

**का.आ. 470.**—केन्द्रीय सरकार ने, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उपधारा (1) के अधीन, भारत सरकार के, कोयला मंत्रालय के द्वारा जारी की गई अधिसूचना संख्या का. आ. 760, तारीख 09 सितम्बर, 2020, जो भारत के राजपत्र, भाग II, खण्ड 3, उप खण्ड (ii), तारीख 12 सितम्बर, 2020 में प्रकाशित की गई थी, उस अधिसूचना से उपाबद्ध अनुसूची में विनिर्दिष्ट परिक्षेत्र की भूमि में जिसका माप 1925.66 हेक्टेयर [ 558.00 हेक्टेयर+ 1367.66 हेक्टेयर ] (लगभग) या 4758.31 एकड़ [ 1378.82 एकड़ + 3379.49 एकड़ ] (लगभग) है, कोयले का पूर्वेक्षण करने के अपने आशय की सूचना दी थी;

और केन्द्रीय सरकार का यह समाधान हो गया है, कि इस अधिसूचना से उपाबद्ध अनुसूची में विहित की गई उक्त भूमि के भाग में कोयला अभिप्राप्य है ;

अतः, अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए इससे संलग्न अनुसूची में वर्णित 1211.75 हेक्टेयर [ 558.00 हेक्टेयर+ 653.75 हेक्टेयर ] (लगभग) या 2994.24 एकड़ [ 1378.82 एकड़ + 1615.42 एकड़ ] (लगभग) माप की उक्त भूमि या उस पर के सभी अधिकारों का अर्जन करने के अपने आशय की सूचना देती है ;

**टिप्पण 1:** इस अधिसूचना के अधीन आने वाले क्षेत्र के रेखांक संख्या एनसीएल/मुख्यालय/भूमि और राजस्व/2021/85, तारीख 09 अप्रैल, 2021 और एनसीएल/ मुख्यालय /भूमि और राजस्व/2021/86, तारीख 17 मई, 2021 का निरीक्षण कलेक्टर, जिला सिंगरौली (मध्य प्रदेश) के कार्यालय में या कोयला नियंत्रक, 1, काउंसिल हाउस स्ट्रीट, कोलकाता- 700001 के कार्यालय में या महा प्रबंधक, नार्दर्नकोलफील्ड्स लिमिटेड (भूमि और राजस्व विभाग), सिंगरौली (मध्य प्रदेश), पिन कोड – 486889 के कार्यालय में या महा प्रबंधक (गवेषणा प्रभाग), सेन्ट्रल माइन प्लानिंग एंड डिजाइन इंस्टीच्यूट, गोंडवाना प्लेस, कांके रोड, राँची -834008 (झारखण्ड) में किया जा सकता है।

**टिप्पण 2:** उक्त अधिनियम की धारा 8 के उपबंधों की ओर ध्यान आकृष्ट किया जाता है, जिसमें निम्नलिखित उपबंध है :-

**“8. अर्जन की बाबत आपत्तियाँ.**—(1) कोई व्यक्ति, जो किसी भूमि में, जिसकी बाबत धारा 7 के अधीन अधिसूचना निकाली गई है, हितबद्ध है, अधिसूचना के निकाले जाने के तीस दिन के भीतर सम्पूर्ण भूमि या उसके किसी भाग या ऐसी भूमि में या उस पर के किन्हीं अधिकारों का अर्जन किए जाने के बारे में आपत्ति कर सकेगा।

**स्पष्टीकरण.**— इस धारा के अन्तर्गत यह आपत्ति नहीं मानी जायेगी, कि कोई व्यक्ति किसी भूमि में कोयला उत्पादन के लिए स्वयं खनन संक्रियाएं करना चाहता है और ऐसी संक्रियाएं केन्द्रीय सरकार या किसी अन्य व्यक्ति को नहीं करनी चाहिए।

(2) उपधारा (1) के अधीन प्रत्येक आपत्ति सक्षम प्राधिकारी को लिखित रूप में की जायेगी और सक्षम प्राधिकारी, आपत्तिकर्ता को स्वयं सुने जाने का या विधि व्यवसायी द्वारा सुनवाई का अवसर देगा और ऐसी सभी आपत्तियों को सुनने के पश्चात् और ऐसी अतिरिक्त जाँच, यदि कोई हो, करने के पश्चात्, जो वह आवश्यक समझता है, वह या तो धारा 7 की उपधारा (1) के अधीन अधिसूचित भूमि के या ऐसी भूमि में या उस पर के अधिकारों के संबंध में एक

रिपोर्ट या ऐसी भूमि के विभिन्न टुकड़ों या ऐसी भूमि में या उस पर के अधिकारों के संबंध में आपत्तियों पर अपनी सिफारिशों और उसके द्वारा की गई कार्यवाही के अभिलेख सहित विभिन्न रिपोर्ट केन्द्रीय सरकार को उसके विनिश्चय के लिए देगा।

(3) इस धारा के प्रयोजनों के लिए, वह व्यक्ति किसी भूमि में हितबद्ध समझा जायेगा जो प्रतिकर में हित का दावा करने का हकदार होता यदि भूमि या किसी ऐसी भूमि में या उस पर के अधिकार इस अधिनियम के अधीन अर्जित कर लिए जाते।”

**टिप्पण 3 :** केन्द्रीय सरकार ने कोयला नियंत्रक, 1, काउंसिल हाऊस स्ट्रीट, कोलकाता-700001 को उक्त अधिनियम की धारा 3 के अधीन भारत सरकार के राजपत्र, भाग II, खण्ड 3, उपखण्ड (ii), तारीख 17 अक्टूबर, 1987 में प्रकाशित अधिसूचना संख्या का.आ. 2839, तारीख 5 अक्टूबर, 1987 के अधीन सक्षम प्राधिकारी के रूप में नियुक्त किया है।

### अनुसूची-I

**बघेला, बुन्देला, चन्देला, ककरी उत्तर, झिगुरदह डीप और टिपा झरिया भौगोलिक ब्लाक**

**दुधौचुआ विस्तार और ककरी उत्तर ओ.सी.पी. के लिए**

**नार्दर्न कोलफील्ड्स लिमिटेड, सिंगरौली**

**जिला – सिंगरौली (मध्य प्रदेश)**

(रेखांक संख्या एनसीएल/मुख्यालय/भूमि और राजस्व/2021/85, तारीख 09 अप्रैल, 2021)

सभी अधिकार :

क्र.सं.	ग्राम का नाम	पटवारी सर्किल संख्या	तहसील	जिला	क्षेत्र (हेक्टेयर में)	टिप्पणियां
1.	चटका	00005	सिंगरौली नगर	सिंगरौली	42.00	भाग
2.	झिगुरदह	00005	सिंगरौली नगर	सिंगरौली	507.00	भाग
3.	चूरीदह	00005	सिंगरौली नगर	सिंगरौली	9.00	भाग
				योग	558.00 हेक्टेयर (लगभग) या 1378.82 एकड़ (लगभग)	

#### 1. ग्राम चटका में अर्जित किए जाने वाले प्लॉट संख्यांक :

51(भाग), 52(भाग), 53(भाग), 54(भाग), 55(भाग), 56(भाग), 57 और 58(भाग).

#### 2. ग्राम झिगुरदह में अर्जित किए जाने वाले प्लॉट संख्यांक :

365(भाग), 366(भाग), 367(भाग), 370(भाग), 371(भाग), 374(भाग), 375, 376(भाग), 377(भाग), 381(भाग), 382(भाग), 383(भाग), 384से 388, 389(भाग), 392(भाग), 393(भाग), 394(भाग), 395(भाग), 396(भाग), 397(भाग), 398(भाग), 399(भाग), 400, 401, 402, 403(भाग), 404(भाग), 405 से 409, 410(भाग), 411 और 412(भाग).

### 3. ग्राम चूरीदह में अर्जित किए जाने वाले प्लॉट संख्यांक :

1(भाग) और 2 (भाग).

#### सीमा – वर्णन:

- क-ख : रेखा, झिंगुरदह ब्लॉक की पूर्व अर्जित भूमि की सीमा पर बिन्दु “क” से आरम्भ होती है और ग्राम झिंगुरदह के प्लॉट संख्यांक 365 और 366 तथा ग्राम चटका के प्लॉट संख्यांक 51, 52, 56, 53 और 54 से होकर गुजरती है और दुधीचुआ ब्लॉक विस्तार-II की पूर्व अर्जित भूमि की सीमा के बिन्दु “ख” पर मिलती है।
- ख-ग : रेखा, बिन्दु “ख” से आरम्भ होती है और ग्राम चटका के प्लॉट संख्यांक 54, 56, 55 और 58 तथा ग्राम झिंगुरदह के प्लॉट संख्यांक 403 और 404 से होकर गुजरती है और यही रेखा दुधीचुआ ब्लॉक विस्तार-II की पूर्व अर्जित भूमि की सीमा पर से होकर गुजरती है और ग्राम झिंगुरदह तथा ग्राम करवारी की सम्मिलित सीमा के बिन्दु “ग” पर मिलती है।
- ग-घ : रेखा, बिन्दु “ग” से आरम्भ होती है, और ग्राम झिंगुरदह तथा ग्राम करवारी की सम्मिलित सीमा से होकर जाती है, और यही रेखा दुधीचुआ ब्लॉक-I की पूर्व अर्जित भूमि की सीमा पर से होकर गुजरती है तथा बिन्दु “घ” पर मिलती है।
- घ-ङ : रेखा, बिन्दु “घ” से आरम्भ होती है और ग्राम झिंगुरदह के प्लॉट संख्यांक 410, प्लॉट संख्यांक 411 और 413 के किनारे, 412, 394 और 393 तथा ग्राम चूरीदह के प्लॉट संख्यांक 1 और 2 पुनः प्लॉट संख्यांक 1 तथा पुनः ग्राम झिंगुरदह के प्लॉट संख्यांक 392 और 389 से होकर गुजरती है, और यही रेखा बीना - ककरी समामेलन की पूर्व अर्जित भूमि की सीमा पर से होकर गुजरती है तथा बिन्दु “ङ.” पर मिलती है।
- ङ.-च : रेखा, बिन्दु “ङ.” से आरम्भ होती है और ग्राम झिंगुरदह के प्लॉट संख्या 389 से होकर गुजरती है और यही रेखा बीना - ककरी समामेलन की पूर्व अर्जित भूमि की सीमा पर से होकर गुजरती है तथा मध्य प्रदेश और उत्तर प्रदेश राज्य की सम्मिलित सीमा के बिन्दु “च” पर मिलती है।
- च-छ : रेखा, बिन्दु “च” से आरम्भ होती है और मध्य प्रदेश तथा उत्तर प्रदेश राज्य की सम्मिलित सीमा से होकर गुजरती है तथा झिंगुरदह ब्लॉक की पूर्व अर्जित सीमा पर स्थित बिन्दु “छ” पर मिलती है।
- छ-ज : रेखा, बिन्दु “छ” से आरम्भ होती है, और ग्राम झिंगुरदह के प्लॉट संख्यांक 383, 382, 381, 376 और 377 से होकर जाती है, और यही रेखा झिंगुरदह ब्लॉक की पूर्व अर्जित भूमि की सीमा पर से होकर गुजरती है तथा बिन्दु “ज” पर मिलती है।
- ज-झ : रेखा, बिन्दु “ज” से आरम्भ होती है और ग्राम झिंगुरदह के प्लॉट संख्यांक 377, 374 और 395 से होकर जाती है, और यही रेखा झिंगुरदह ब्लॉक की पूर्व अर्जित भूमि की सीमा पर से होकर गुजरती है तथा बिन्दु “झ” पर मिलती है।
- झ-क : रेखा, बिन्दु “झ” से आरम्भ होती है और ग्राम झिंगुरदह के प्लॉट संख्यांक 395, 396, 397, 398, 399, 371, 370, 367, 366 और 365 से होकर जाती है और यही रेखा झिंगुरदह ब्लॉक की पूर्व अर्जित भूमि की सीमा पर से होकर गुजरती है तथा आरम्भिक बिन्दु “क” पर मिलती है।

**अनुसूची-II**

**बुन्देला, बघेला, मेहरौली उत्तर, मेहरौली पूर्व और पश्चिम तथा मोरवा भौगोलिक ब्लाक  
जयन्त विस्तार ओ. सी. पी. के लिए  
नार्दर्न कोलफील्ड्स लिमिटेड, सिंगरौली  
जिला -सिंगरौली (मध्य प्रदेश)**

(रेखांक संख्या :एनसीएल/मुख्यालय/भूमि एवं राजस्व/2021/86, तारीख 17 मई, 2021 )

**सभी अधिकार :**

1. भाग - I (जयन्त उप ब्लाक- I) (ख, ग, ध, न, प, फ, ब, भ, ख)

क्र.सं.	ग्राम का नाम	पटवारी सर्किल संख्या	तहसील	जिला	क्षेत्र (हेक्टेयर में)	टिप्पणियां
1	मेढ्रौली	00004	सिंगरौली नगर	सिंगरौली	234.66	भाग
योग					234.66 हेक्टेयर (लगभग) या 579.85 एकड़ (लगभग)	

**1. ग्राम मेढ्रौली में अर्जित किए जाने वाले प्लॉट संख्यांक :**

33(भाग), 34(भाग), 36(भाग), 38(भाग), 39(भाग), 43(भाग), 44(भाग), 45(भाग), 46(भाग), 49(भाग), 50(भाग), 52(भाग), 53(भाग), 54(भाग), 55(भाग), 56 से 62, 63(भाग), 64(भाग), 80(भाग), 81(भाग), 82(भाग), 83(भाग), 89(भाग), 90(भाग), 95(भाग), 96(भाग), 97, 98(भाग), 102(भाग), 103(भाग), 348 (भाग) और 349 (भाग).

**सीमा वर्णन :**

- ख-ग :** रेखा, बिन्दु “ख” से आरम्भ होती है और ग्राम मेढ्रौली के प्लॉट संख्यांक 102, 98, 95, 96, 90 और 89 से होकर गुजरती है और यही रेखा (लाइन) मेहरौली वेस्ट (डिप उत्तर की तरफ) ब्लाक की पूर्व अर्जित भूमि की सीमा पर से होकर गुजरती है तथा बिन्दु “ग” पर मिलती है।
- ग-ध :** रेखा, बिन्दु “ग” से आरम्भ होती है और ग्राम मेढ्रौली के प्लॉट संख्यांक 89, 83, 81, 82, 80 और 63 से होकर गुजरती है और यही रेखा मेहरौली वेस्ट (डिप उत्तर की तरफ ) ब्लाक की पूर्व अर्जित भूमि की सीमा पर से होकर गुजरती है तथा बिन्दु “ध” पर मिलती है।
- ध-न :** रेखा, बिन्दु “ध” से आरम्भ होती है और ग्राम मेढ्रौली के प्लॉट संख्या 63 (नाला) के पूर्वी सीमा (किनारे) से होकर गुजरती है एवं प्लॉट संख्या 63 के सबसे पूर्वी बिंदु “न” पर मिलती है।
- न-प:** रेखा, बिन्दु “न” से आरम्भ होती है और ग्राम मेढ्रौली के प्लॉट संख्यांक 64, 348 और 349 से होकर गुजरती है तथा प्लॉट संख्या 349 के बिन्दु “प” पर मिलती है।
- प-फ:** रेखा, बिन्दु “प” से आरम्भ होती है और ग्राम मेढ्रौली के प्लॉट संख्यांक 349, 33, 34, 36, 38, 39, 43, 44, 45, 46, 49, 50, 52 और 53 एवं 54 की संयुक्त सीमा से होकर गुजरती है तथा बिन्दु “फ” पर मिलती है।
- फ-ब:** रेखा, बिन्दु “फ” से आरम्भ होती है और ग्राम मेढ्रौली के प्लॉट संख्या 53 से होकर गुजरती है तथा बिन्दु “ब” पर मिलती है।

ब-भ: रेखा, बिन्दु “ब” से आरम्भ होती है और ग्राम मेढौली के प्लॉट संख्या 53 से होकर गुजरती है तथा बिन्दु “भ” पर मिलती है।

भ-ख: रेखा, बिन्दु “भ” से आरम्भ होती है और ग्राम मेढौली के प्लॉट संख्यांक 53, 54, 55, 103 और 102 से होकर गुजरती है तथा मेहरौली वेस्ट (डिप उत्तर की तरफ) ब्लाक की पूर्व अर्जित भूमि की सीमा पर तथा आरम्भिक बिन्दु “ख” पर मिलती है।

## 2. भाग - II (जयंत उप ब्लाक - II) (द, घ, ङ, च, छ, ज, ठ, ड, ढ, ण, त, थ, द):

क्र.सं.	ग्राम का नाम	पटवारी सर्किल संख्या	तहसील	जिला	क्षेत्र (हेक्टेयर में)	टिप्पणियां
1	मेढौली	00004	सिंगरौली नगर	सिंगरौली	5.68	भाग
2	पिजरेह (पंजरेह)	00005	सिंगरौली नगर	सिंगरौली	296.05	भाग
3	चटका	00005	सिंगरौली नगर	सिंगरौली	113.36	भाग
4	झिंगुरदह	00005	सिंगरौली नगर	सिंगरौली	4.00	भाग
योग					419.09 हेक्टेयर (लगभग) या 1035.57 एकड़ (लगभग)	

जोड़ (भाग-I + II) = 234.66 + 419.09 = 653.75 हेक्टेयर (लगभग)

या 579.85 + 1035.57 = 1615.42 एकड़ (लगभग)

### 1. ग्राम मेढौली में अर्जित किए जाने वाले प्लॉट संख्यांक :

389(भाग), 400(भाग) और 402 (भाग).

### 2. ग्राम पिजरेह (पंजरेह) में अर्जित किए जाने वाले प्लॉट संख्यांक :

8(भाग), 9(भाग), 11(भाग), 12,13 (भाग), 14(भाग), 15 से 30, 31(भाग), 32(भाग), 33 से 40, 41(भाग), 42, 43(भाग), 44(भाग), 46(भाग), 51 (भाग), 53(भाग), 54 से 139,140 (भाग), 141(भाग),142 से 161, 162(भाग),166(भाग),167(भाग), 170, 171, 172 (भाग),173 से 185, 186(भाग), 187,188(भाग), 189(भाग), 190(भाग), 191, 192, 193(भाग), 194(भाग),198/1 (भाग) और 201 से 210.

### 3. ग्राम चटका में अर्जित किए जाने वाले प्लॉट संख्यांक :

1(भाग), 2(भाग),2/60, 3(भाग), 3/61(भाग), 4, 5, 5/59, 6 से 17, 17/62, 18 से 21, 21/63, 22 से 33, 33/64, 34 से 37, 37/67, 38 से 44, 44/65, 45, 45/66, 46(भाग), 47, 48(भाग), 49, 50,51(भाग), 52(भाग), 53(भाग), 53/59(भाग), 54(भाग) और 56 (भाग).

### 4. ग्राम झिंगुरदह में अर्जित किए जाने वाले प्लॉट संख्यांक :

358(भाग), 359(भाग), 360(भाग), 365(भाग), और 366(भाग).

### सीमा वर्णन:

द-घ: रेखा, बिन्दु “द” से आरम्भ होती है और ग्राम मेढौली के प्लॉट संख्यांक 389, 400 और 402 से होकर गुजरती है और यही रेखा मेहरौली वेस्ट (डिप उत्तर की तरफ) ब्लाक की पूर्व अर्जित भूमि की सीमा पर से होकर गुजरती है तथा दुधीचुआ ब्लाक विस्तार-II और मेहरौली वेस्ट (डिप उत्तर की तरफ) ब्लाक की पूर्व अर्जित सम्मिलित सीमा के बिन्दु “घ” पर मिलती है।



- घ-ङ : रेखा, बिन्दु “घ” से आरम्भ होती है और ग्राम मेढौली के प्लाट संख्या 402 तथा ग्राम पिजरेह (पंजरेह) के प्लाट संख्यांक 194 और 172 से होकर गुजरती है और यही रेखा दुधीचुआ ब्लाक विस्तार-II की पूर्व अर्जित भूमि की सीमा पर से होकर गुजरती है तथा बिन्दु “ङ” पर मिलती है।
- ङ-च : रेखा, बिन्दु “ङ” से आरम्भ होती है और ग्राम पिजरेह (पंजरेह) के प्लाट संख्यांक 172, 193, 190, 189, 188, 198/1 और 186 तथा ग्राम चटका के प्लाट संख्यांक 53/59, 53 और 54 से होकर गुजरती है और यही रेखा दुधीचुआ ब्लाक विस्तार-II की पूर्व अर्जित भूमि की सीमा पर से होकर गुजरती है तथा बिन्दु “च” पर मिलती है।
- च-छ : रेखा, बिन्दु “च” से आरम्भ होती है और ग्राम चटका के प्लाट संख्यांक 54, 53, 56, 52, और 51 तथा ग्राम झिंगुरदह के प्लाट संख्यांक 366 और 365 से होकर गुजरती है तथा झिंगुरदह ब्लाक की पूर्व अर्जित सीमा रेखा पर स्थित बिन्दु “छ” पर मिलती है।
- छ-ज : रेखा, बिन्दु “छ” से आरम्भ होती है और ग्राम झिंगुरदह के प्लाट संख्या 365 तथा ग्राम चटका के प्लाट संख्या 48 से होकर गुजरती है और यही रेखा झिंगुरदह ब्लाक की पूर्व अर्जित भूमि की सीमा पर से होकर गुजरती है तथा बिन्दु “ज” पर मिलती है।
- ज-ठ : रेखा, बिन्दु “ज” से आरम्भ होती है और ग्राम चटका के प्लाट संख्यांक 48 और 46 तथा ग्राम झिंगुरदह के प्लाट संख्यांक 360, 359 और 358 से होकर गुजरती है और यही रेखा झिंगुरदह ब्लाक की पूर्व अर्जित भूमि की सीमा पर से होकर गुजरती है तथा बिन्दु “ठ” पर मिलती है।
- ठ-ड : रेखा, बिन्दु “ठ” से आरम्भ होती है और ग्राम झिंगुरदह के प्लाट संख्या 358 तथा ग्राम चटका के प्लाट संख्यांक 3, 3/61, 2 और 1 तथा ग्राम पिजरेह (पंजरेह) के प्लाट संख्या 53 से होकर गुजरती है तथा बिन्दु “ड” पर मिलती है।
- ड-ढ : रेखा, बिन्दु “ड” से आरम्भ होती है और ग्राम पिजरेह (पंजरेह) के प्लाट संख्यांक 51, 41, 46, 43, 44, 32 और 31 से होकर गुजरती है तथा बिन्दु “ढ” पर मिलती है।
- ढ-ण : रेखा, बिन्दु “ढ” से आरम्भ होती है और ग्राम पिजरेह (पंजरेह) के प्लाट संख्यांक 14, 13 और 8 से होकर गुजरती है तथा बिन्दु “ण” पर मिलती है।
- ण-त : रेखा, बिन्दु “ण” से आरम्भ होती है और ग्राम पिजरेह (पंजरेह) के प्लाट संख्यांक 9, 11, 162, 141, 140, 166 और 167 से होकर गुजरती है तथा बिन्दु “त” पर मिलती है।
- त-थ : रेखा, बिन्दु “त” से आरम्भ होती है और ग्राम पिजरेह (पंजरेह) के प्लाट संख्यांक 167 एवं 170 की संयुक्त सीमा से होकर गुजरती है तथा बिन्दु “थ” पर मिलती है।
- थ-द : रेखा, बिन्दु “थ” से आरम्भ होती है और ग्राम पिजरेह (पंजरेह) के प्लाट संख्यांक 169 एवं 170 की संयुक्त सीमा, 169 एवं 171 की संयुक्त सीमा से तथा ग्राम मेढौली के प्लाट संख्या 389 से होकर गुजरती है तथा मेहरौली वेस्ट (डिप उत्तर की तरफ) ब्लाक की पूर्व अर्जित भूमि की सीमा पर तथा आरम्भिक बिन्दु “द” पर मिलती है।

[फा. सं. 43015/14/2020-एलए एण्ड आईआर]

राम शिरोमणि सरोज, उप सचिव

**MINISTRY OF COAL**

New Delhi, the 1st July, 2021

**S.O. 470.**—Whereas by the notification of the Government of India in the Ministry of Coal number S.O. 760, dated the 09<sup>th</sup> September, 2020, issued under sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (herein after referred to as the said Act) and published in the Gazette of India, Part II, Section 3, Sub-section (ii), dated 12<sup>th</sup> September, 2020, the Central Government gave notice of its intention to prospect for coal in 1925.66 hectares [558.00 hectares + 1367.66 hectares] (approximately) or 4758.31 acres [1378.82 acres + 3379.49 acres] (approximately) acres (approximately) of the lands in the locality specified in the Schedule annexed to that notification ;

And whereas, the Central Government is satisfied that coal is obtainable in a part of the said lands prescribed in the Schedule appended to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 7 of the said Act, the Central Government hereby gives notice of its intention to acquire the land measuring 1211.75 hectares [558.00 hectares + 653.75 hectares] (approximately) or 2994.24 acres [ 1378.82 acres + 1615.42 acres] (approximately) and all rights in or over the said lands as described in the Schedules appended hereto;

**Note: 1** The plan bearing number NCL/HQ/Land & Revenue/2021/85, dated the 09th April, 2021 and NCL/HQ/ Land & Revenue /2021/86, dated the 17th May, 2021 of the area covered by this notification may be inspected at the office of the Collector, District Singrauli (Madhya Pradesh) or at the office of the coal controller, 1, Council House street, Kolkata -700001 or at the office of the General Manager, Northern Coalfields Limited, (Land and Revenue Department), District Singrauli, Madhya Pradesh, Pin code – 486 889 or at the Office of the General Manager (Exploration Division), Central Mine Planning and Design Institute Limited, Gondwana Place, Kanke Road, Ranchi – 834008 (Jharkhand).

**Note: 2** Attention is hereby invited to the provisions of the section 8 of the said Act which provides as follows: -

**“8. Objection to Acquisition.**—(1) Any person interested in any land in respect of which a notification under section 7 has been issued, may, within thirty days of the issue of the notification, object to the acquisition of the whole or any part of the land or of any rights in or over such land.

**Explanation.-** It shall not be an objection within the meaning of this section for any person to say that he himself desires to undertake mining operations in the land for the production of Coal and that such operations should not be undertaken by the Central Government or by any other person.

(2) Every objection under sub-section (1) shall be made to the competent authority in writing and the competent authority shall give the objector an opportunity of being heard either in person or by a legal practitioner and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, either makes a report in respect of the land which has been notified under sub-section (1) of section 7 or of rights in or over such land, or make different reports in respect of different parcels of such land, or of rights in or over such land, to the Central Government, containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of the Government.

(3) For the purpose of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land or any rights in or over such land were acquired under this Act.”

**Note: 3.** The Coal Controller, 1, Council House Street, Kolkata -700001, has been appointed by the Central Government as the Competent Authority under section 3 of the said Act, by notification number S.O. 2839, dated the 5th October, 1987 published in the Gazette of India, Part II, Section 3, Sub-section (ii), dated the 17<sup>th</sup> October, 1987.

**SCHEDULE - I****BAGHELA, BUNDELA, CHANDELA, KAKRI NORTH, JHINGURDAH DEEP AND  
TIPAJHARIA GEOLOGICAL BLOCKS**

**For Dudhichua Expansion & Kakri North OCPs  
Northern Coalfields Limited, Singrauli  
District – Singrauli (Madhya Pradesh)**

[ Plan bearing number NCL/HQ/Land & Revenue/2021/85, dated the 09th April, 2021]

**All Rights:**

Sr. No.	Name of Village	Patwari circle number	Tehasil	District	Area (in hectares)	Remarks
1.	CHATKA	00005	Singrauli Nagar	Singrauli	42.00	Part

2.	JHINGURDAH	00005	Singrauli Nagar	Singrauli	507.00	Part
3.	CHURIDAH	00005	Singrauli Nagar	Singrauli	9.00	Part
				Total 558.00 hectares (approximately) or 1378.82 acres (approximately)		

**(1) Plot numbers to be acquired in village Chatka:**

51(P), 52(P), 53(P), 54(P), 55(P), 56(P), 57 and 58(P).

**(2) Plot numbers to be acquired in village Jhingurdah :**

365 (P), 366(P), 367(P), 370(P), 371(P), 374(P), 375, 376(P), 377(P), 381(P), 382(P), 383(P), 384 to 388, 389(P), 392(P), 393(P), 394(P), 395(P), 396(P), 397(P), 398(P), 399(P), 400, 401, 402, 403(P), 404(P), 405 to 409, 410(P), 411 and 412(P).

**(3) Plot numbers to be acquired in village Churidah:**

1(P) and 2(P).

**Boundary description :**

- A-B:** The line starts from Point 'A' on boundary of previously acquired land of Jhingurda Block and passes through plot number 365 and 366 of village Jhingurdah and plot number 51, 52, 56, 53 and 54 village Chatka and meets on boundary of previously acquired land of Dudhichua Block Extension – II at point 'B'.
- B-C:** Line starts from Point 'B' and passes through plot number 54, 56, 55 and 58 of village Chatka and plot numbers 403 and 404 of village Jhingurdah and same line passes over the boundary of previously acquired land of Dudhichua Block Extension – II and meets on common boundary of village Jhingurdah and village karwari at point 'C'.
- C-D:** Line starts from Point 'C' and passes through common boundary of village Jhingurdah and village karwari and same line passes over the boundary of previously acquired land of Dudhichua Block– I and meets at point 'D'.
- D-E:** Line starts from Point 'D' and passes through plot numbers 410, common corner of plot number 411 and 413, 412, 394 and 393 of village Jhingurdah and plot number 1 and 2 again plot number 1 of village Churidah and through plot number 392 and 389 of village Jhingurdah and the same line passes over the boundary of previously acquired land of Bina – Kakri Amalgamation and meets at point 'E'.
- E-F:** Line starts from Point 'E' and passes through plot number 389 of village Jhingurdah and same line passes over the boundary of previously acquired land of Bina – Kakri Amalgamation and meets on common state boundary of Madhya Pradesh and Utter Pradesh at point 'F'.
- F-G:** Line starts from Point 'F' and passes through common state boundary of Madhya Pradesh and Utter Pradesh and meets at point 'G' situated over the previous acquired boundary of Jhingurdah Block.
- G-H:** Line starts from Point 'G' and passes through plot number 383, 382, 381, 376 and 377 of village Jhingurdah and same line passes over the boundary of previously acquired land of Jhingurdah Block and meets at point 'H'.
- H-I:** Line starts from Point 'H' and passes through plot numbers 377, 374 and 395 of village Jhingurdah and same line passes over the boundary of previously acquired land of Jhingurdah Block and meets at point 'I'.
- I-A:** Line starts from Point 'I' and passes through plot number 395, 396, 397, 398, 399, 371, 370, 367, 366 and 365 of village Jhingurdah and same line passes over the boundary of previously acquired land of Jhingurdah Block and meets at starting point 'A'.

**SCHEDULE-II**

**BUNDELA, BAGHELA, MEHRAULI NORTH, MEHRAULI EAST & WEST  
AND MORWA GEOLOGICAL BLOCKS  
For Jayant Expansion OCP  
Northern Coalfields Limited, Singrauli  
District – Singrauli (Madhya Pradesh)**

[ Plan bearing number NCL/HQ/Land &Revenue/2021/86, dated the 17th May, 2021 ]

**ALL RIGHTS:****1. PART -I (Jayant Sub Block-I) (BCSTUVWXB) :**

Sr. No.	Name of Village	Patwari circle number	Tehasil	District	Area (in hectares)	Remarks
1.	MEDHAULI	00004	Singrauli Nagar	Singrauli	234.66	Part
Total :				234.66 hectares (approximately) or 579.85 acres (approximately)		

**1. Plot numbers to be acquired in village Medhauli:**

33(P), 34(P), 36(P), 38(P), 39(P), 43(P), 44(P), 45(P), 46(P), 49(P), 50(P), 52(P), 53(P), 54(P), 55(P), 56 to 62, 63(P), 64(P), 80(P), 81(P), 82(P), 83(P), 89(P), 90(P), 95(P), 96(P), 97, 98(P), 102(P), 103(P), 348 (P) and 349 (P).

**Boundary description :**

- B-C:** Line starts from Point 'B' and passes through plot numbers 102, 98, 95, 96, 90 and 89 of village Medhauli and same line passes over the boundary of previously acquired land of Mehrauli West (Dip North side) Block and meets at point 'C'.
- C-S :** Line starts from Point 'C' and passes through plot numbers 89, 83, 81, 82, 80 and 63 of village medhauli and same line passes over the boundary of previously acquired land of Mehrauli West (Dip North Side) Block and meets at point 'S'.
- S-T :** Line starts from Point 'S' and passes through eastern boundary of plot number 63 (Nalla) and meets at most eastern point 'T' of plot no 63.
- T-U :** Line starts from Point 'T' and passes through plot numbers 64, 348 and 349 of village Medhauli and meets at point 'U' of plot no 349.
- U-V :** Line starts from Point 'U' and passes through plot numbers 349,33,34,36,38,39, 43,44, 45,46,49,50,52 and common boundary of plot numbers 53 & 54 of village Medhauli and meets at point 'V'.
- V-W :** Line starts from Point 'V' and passes through plot number 53 of village Medhauli and meets at point 'W'.
- W-X :** Line starts from Point 'W' and passes through plot number 53 of village Medhauli and meets at point 'X'.
- X-B :** Line starts from Point 'X' and passes through plot numbers 53,54,55,103 and 102 of village Medhauli and meets at starting point 'B' situated on previously acquired boundary of Medhauli West (Dip North Side) Block.

**2. PART - II (Jayant Sub Block-II) (RDEFGHLMNOPQR):****All Rights:**

Sr. No.	Name of Village	Patwari circle number	Tehasil	District	Area (in hectares)	Remarks
1.	MEDHAULI	00004	Singrauli Nagar	Singrauli	5.68	Part
2.	PIJREH (PANJREH)	00005	Singrauli Nagar	Singrauli	296.05	Part
3.	CHATKA	00005	Singrauli Nagar	Singrauli	113.36	Part

4.	JHINGURDAH	00005	Singrauli Nagar	Singrauli	4.00	Part
Total:				419.09 hectares (approximately) or 1035.57 acres (approximately)		

Total (Part-I + Part-II) = 234.66 + 419.09 = 653.75 hectares (approximately)  
or 579.85 + 1035.57 = 1615.42 acres (approximately)

**1. Plot numbers to be acquired in village Medhauri:**

389 (P), 400(P) and 402 (P).

**2. Plot numbers to be acquired in village Panjreh:**

8(P), 9(P), 11(P), 12, 13 (P), 14(P), 15 to 30, 31(P), 32(P), 33 to 40, 41(P), 42, 43(P), 44(P), 46(P), 51(P), 53(P), 54 to 139, 140 (P), 141(P), 142 to 161, 162(P), 166(P), 167 (P), 170, 171, 172 (P), 173 to 185, 186(P), 187, 188(P), 189(P), 190(P), 191, 192, 193(P), 194(P), 198/1(P) and 201 to 210.

**3. Plot numbers to be acquired in village Chatka:**

1(P), 2(P), 2/60, 3(P), 3/61(P), 4, 5, 5/59, 6 to 17, 17/62, 18 to 21, 21/63, 22 to 33, 33/64, 34 to 37, 37/67, 38 to 44, 44/65, 45, 45/66, 46(P), 47, 48(P), 49, 50, 51(P), 52(P), 53(P), 53/59(P), 54(P) and 56 (P).

**4. Plot numbers to be acquired in village Jhingurdah:**

358(P), 359(P), 360(P), 365(P) and 366(P).

**Boundary description:**

**R-D :** The line starts from Point 'R' and passes through plot number 389, 400 and 402 of village Medhauri and same line passes over the boundary of previously acquired land of Mehrauli West (Dip North Side) Block and meets at common point 'D' situated on previously acquired boundary of Dudhichua Block extension – II & Mehrauli West (Dip North Side) Block.

**D-E:** Line starts from Point 'D' and passes through plot number 402 of village Medhauri and plot numbers 194 and 172 of village Pijreh (Panjreh) and same line passes over the boundary of previously acquired land of Dudhichua Block extension - II and meets at point 'E'.

**E-F:** Line starts from Point 'E' and passes through plot numbers 172, 193, 190, 189, 188, 198/1 and 186 of village Pijreh (Panjreh) and plot numbers 53/59, 53 and 54 of village Chatka and same line passes over the boundary of previously acquired land of Dudhichua Block Extension – II and meets at point 'F'.

**F-G:** Line starts from Point 'F' and passes through plot numbers 54, 53, 56, 52 and 51 of village Chatka and plot numbers 366 and 365 of village Jhingurdah and meets at point 'G' situated on previously acquired boundary of Jhingurdah Block .

**G-H:** Line starts from Point 'G' and passes through plot numbers 365 of village Jhingurdah and plot numbers 48 of village Chatka and same line passes over the boundary of previously acquired land of Jhingurdah Block and meets at point 'H'.

**H-L:** Line starts from Point 'H' and passes through plot numbers 48 and 46 of village Chatka and plot numbers 360, 359 and 358 of village Jhingurdah and same line passes over the boundary of previously acquired land of Jhingurdah Block and meets at point 'L'.

**L-M:** Line starts from Point 'L' and passes through plot number 358 of village Jhingurdah and plot numbers 3,3/61,2 and 1 of village Chatka and plot number 53 of village Pijreh (Panjreh) and meets at point 'M'.

**M-N:** Line starts from Point 'M' and passes through plot numbers 51,41,46,43,44,32 and 31 of village Pijreh (Panjreh) and meets at point 'N'.

**N-O:** Line starts from Point 'N' and passes through plot numbers 14,13 and 8 of village Pijreh (Panjreh) and meets at point 'O'.

**O-P:** Line starts from Point 'O' and passes through plot numbers 9, 11,162,141,140,166 and 167 of village Pijreh (Panjreh) and meets at point 'P'.

**P-Q:** Line starts from Point 'P' and passes through common boundary of plot numbers 167 and 170 of village Pijreh (Panjreh) and meets at point 'Q'.

**Q-R:** Line starts from Point 'Q' and passes through common boundary of plot numbers 169 and 170 and common boundary of 169 and 171 of village Pijreh (Panjreh) and plot number 389 of village Medhauri and meets at starting point 'R' situated on previously acquired boundary of Medhauri West (Dip North Side) Block.

**Grand Total : Schedule-I 558.00 hectares+Schedule-II 653.75 hectares= 1211.75 hectares (approximately)**

**or Schedule-I 1378.82 acres + Schedule-II 1615.42 acres = 2994.24 acres (approximately)**

[F. No. 43015/14/2020-LA&IR]

RAM SHIROMANI SAROJ, Dy. Secy.

### श्रम और रोजगार मंत्रालय

नई दिल्ली, 5 जुलाई, 2021

**का.आ. 471.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इलाहाबाद बैंक के प्रबंधन, संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय सं. 2, धनबाद के पंचाट (संदर्भ सं. 27/1989) को प्रकाशित करती है जो केन्द्रीय सरकार को 05.07.2021 को प्राप्त हुआ था।

[सं. एल-12012/245/1989-आईआर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

### MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 5th July, 2021

**S.O. 471.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 27/1989) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court No 2*, Dhanbad as shown in the Annexure, in the industrial dispute between the management of Allahabad Bank and their workmen, received by the Central Government on 05.07.2021.

[No. L-12012/245/1989-IR(B-II)]

SEEMA BANSAL, Section Officer

### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD

**PRESENT** : Dr. S. K.Thakur, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act., 1947.

#### **REFERENCE NO 27 OF 1989**

#### **PARTIES:**

The General Secretary,  
Bihar State Allahabad Bank Employees Union,  
Budh Marg, Patna (BIHAR) -800001

**Vs.**

The Asstt. General Manager,  
Allahabad Bank.,  
Boring Road, Patna -800001

**Order No. L-12012/245/89 D-2(A) dt.29.11. 1989**

#### **APPEARANCES :**

On behalf of the workman/Union : Self and Representatives

On behalf of the Management : Mr. Binod Kr.Jha – Ld. Adv. & Management Representatives

**State : Bihar**

**Industry : Banking**

**Dated, Dhanbad, the 29th , April, 2021**

**AWARD**

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act.,1947 has referred the following dispute to this Tribunal for adjudication vide their **Order No. L-12012/245/89-D-2(A) dt. 29.11.1989.**

**SCHEDULE**

“Whether action of the Management of Allahabad Bank in imposing penalty of stoppage of three increments on Shri R.S. Saini notwithstanding his acquittal by Appellate Court and revision petition filed in Patna High Court is justified, if not, to what relief is the workman entitled.”

On receipt of the Order No. L-12012/245/89-D-2(A) dt. 29.11.1989 of the reference from the Government of India, Ministry of Labour & Employment, New Delhi for adjudication of the dispute, it was registered as Reference case No. 27 of 1989 listing with first hearing on 22.03.1990 and accordingly an order to that effect was passed to issue notices through the Registered Post to the parties concerned, directing them to appear before the Tribunal on the date fixed and to file their written statements along with the relevant documents. In pursuance of the said order, notices by the Registered Post were sent to the parties concerned. The matter was adjourned and heard on various dates and was last heard on 21.01.2021 in Camp Court at Patna , and reserved for order for award.”

2. The Sponsoring Union, (Bihar State Allahabad Bank Employees Union) filed statement of claim on 14.02.1990.

3. The claim of concerned workman as per Written Statement is as follows:

- (i) A Charge sheet was issued to Mr. R.S. Saini, concerned workman, for certain incidents with following charges:

**Charge Sheet**

*You are hereby charged with gross misconduct particulars whereof are set out below:*

- (1) *That on 4.12.1980 at about 8 p.m. you forcibly occupied a room at the Patna Branch, broke open the Bank's lock and put your own lock as well as fixed up a sign board displaying N.C.B.E. On 5<sup>th</sup> December, '80 you were asked in writing vide letter No. BST/291 of 5<sup>th</sup> Dec., 80 to vacate the said room by removing your lock and sign board by 5 p.m. You were also called by the Regional Manager, Patna who requested you to vacate the room .But you flatly refused to vacate the said room and threatened him with dire consequences, if the Management made any attempt to re-occupy the said room.*
- (2) *That on 6<sup>th</sup> December, 1980 you were placed under suspension vide letter No. EST/296 dated the 6<sup>th</sup> Dec., 1980.Immediately thereafter you instigated your associates to stage all out violent agitation and mass deputation in the chamber of Regional Manager with a view to force him for getting the suspension order withdrawn which was served earlier. As a direct consequence of your instigation and abetment about 70 to 75 people assembled at the Chamber of the Regional Manager between 2.50 p.m. and 3 p.m. shouted filthily and abusive slogans and threatened him with dire consequence .Some of the members of the said unlawful assembly manhandled the Regional Manager, Shri Shiv Mohan Mishra as well as Shri A. Singh, Development Manager. They broke the table glass, threw away the telephones, paper-weights, chairs here and there inside the chamber, thereby completely ransacked the chamber of the Regional Manager. they also tried to assault the undersigned by throwing chairs towards him.*

*That the aforesaid acts amount to criminal trespass, willful insubordination and disobedience of the lawful and reasonable orders of the superior officer also abetment and instigation of riotous, disorderly and indecent behaviour on the premises of the bank and willful damage of Bank's property.*

*You are, therefore, called upon to submit your explanation in writing within 10 days from the receipt of the charge sheet. If no explanation is received from you within the stipulated period, it will be presumed that you have no explanation to offer.”*

- (ii) On receipt of charge sheet, concerned workman replied to the charge sheet refuting charges leveled against him as baseless, illegal and unjustified as Management failed to prove both charges inflicted upon him.
- (iii) On being unsatisfied with reply of aforesaid charge sheet, the Disciplinary Authority decided to conduct domestic inquiry and as such, appointed inquiry officer who issued notice to charge sheeted employee and conducted inquiry on day to day basis. Evidence had been adduced by both sides giving ample opportunity to cross examine to the witness. It reveals from inquiry papers that one

Mr. Pankaj Tripathi was appointed I. O. and conducted inquiry but left inquiry incomplete and thereafter inquiry was conducted by Mr.S.B.Chakraborty and after completing proceeding for inquiry he submitted inquiry report dt. 12.11.1986 before Disciplinary Authority.

- (iv) Thereafter, Disciplinary Authority finding inquiry fair and proper and therefore found guilty of charge No. 1 as charge No.2 was not proved. Ultimately finding guilty of charge, penalty was imposed upon Shri R.S. Saini concerned workman with punishment of stoppage of three increments in time scale.

4. The concerned workman filed Appeal before the Appellate Authority with prayer to exonerate him from charges inflicted upon him but the Appellate Authority did not find any infirmity in punishment order and as such, he passed order as follows:

*“... .. no specific material or extenuating circumstances have shown me to induce me to differ with the decision of Disciplinary Authority. Accordingly I uphold the decision of Disciplinary Authority. Appeal is hereby dismissed.”*

5. As per written statement of claim filed on behalf of workman, workman side /Union relied upon various facts and infirmity brought in course of domestic inquiry

- (i) That Shri Munnan Prasad, the then Guard and the witness from the Management side was managed with a view to victimize concerned workman for disclosing the fact about corruption rampant in Bank Premises. (As per representation dt. 01.12.1980, available on record )
- (ii) That FIR was also lodged against workman on the basis of written complaint of the said Shri Munnan Prasad for occurrence took place on 04.12.1980 and written complaint was dictated by the then Chief Manager-in-charge and Shri Munnan Prasad endorsed his signature at the instance of then Chief Manager(I/C) because there was an agreement arrived between Shri Munnan Prasad and Bank management to the effect that some other criminal case pending before the court (with allegation to enter into chamber of Senior Manager Mr. Tondon and pointed gun upon him with a view to kill him) will be withdrawn and closed. Finally he was exonerated from charge and got rewarded.
- (iii) In course of hearing of Case No GR-1411 of 1981 Shri Munnan Prasad admitted the fact that he endorsed his signature on the Written complain after assurance given by Bank Management to favour him and withdraw charges inflicted upon him in other criminal case pending before the Court as per agreement .
- (iv) That Mr. S.M. Mishra, Regional Manager had reported a case also on 06.12.1980 before Kotwali P.S., Patna and also filed a case on 13.02.1982 in the Court of C.J.M. for alleged occurrence took place on 04.12.1980 to 06.12.1980 . It was also alleged that Shri S.M.Mishra also deposed in GR Case 1411 of 1981 with admission that Shri R.S.Saini submitted memorandum before him with false allegation in order to malign their position .
- (v) That charge sheet was sent to H.Qr., Kolkata for approval and the Head Quarter, Kolkata expressed inability to accord sanction to the charge sheet as same is not in consonance with Bipartite Settlement as per letter No. ADM/LO/1346 dated 13.02.1981 (Marked X for identification)

*“With reference to your letter No. Est.474 of 03.02.81, please note that we are unable to accord our approval to Shri R.S.Saini ,sent by you ,as the same is not in consonance with the Bipartite Settlement and is also a departure from the draft charge- sheet which was prepared by Shri Sarbadhikary ,when he had been to Patna .*

*Thus, in view of our non-approval for the aforesaid reasons the matter is left entirely at your own risk and responsibility.*

*Yours faithfully,*

*Sd/illegible  
General Manager”*

- (vi) That Investigating Officer was also deputed to investigate on the charges related to occurrence took place on 04.12.1980 and on completion of investigation, submitted report to the effect that he did not find any sign of violence or any sign of breaking lock on the place of occurrence.
- (vii) Against the punishment of three months' imprisonment awarded by Judicial Magistrate, IInd Class, Patna in CR No. 1411 of 1981, the concerned workman preferred Appeal before Ld. Addl. Distt. & Session Judge in criminal case No. 326/1983 and which passed an order of acquittal from charges. The operative portion of Judgment is as follows:



- (a) *"The prosecution has failed to prove that on 04.12.1990 at 8 p.m. the appellants broke the lock of the Bank removed it and put their own lock and signboard" (para -9 Page-11)*
- (b) *"Thus from this statement it appears that the Union of which appellants were members and were allotted room in the premises of the Bank much before the alleged date of occurrence.....Thus considering the aforesaid evidence it appears that the union of which the appellants were members were allotted a room in the premises of the Bank" (Para -9 page-11)*
- (c) *"The Ext.3 was not produced to the Police in course of investigation but the said document was brought to light at the trial stage. The writer of this document does not remember if he wrote out of his own accord or at the instance of the Chief Manager. This Ext.3 was not sent to the police along with Ext.-2 IF.I.R.) the report of the Chief Manager as such in foresaid circumstance, its existence at the stage of investigation is highly doubtful" (Para -7 Page-7).*
- (d) *"...P.W.5 has clearly stated in para-3 at the time of alleged occurrence a criminal case was pending against him and the Chief Manager has made him a witness in the present case and thereafter the case against him was compromised and he was acquitted. Thus this statement clearly shows that P.W.5 Munna Prasad has been made instrumental in instituting the present case." (Para-7 Page -7)*
- (e) *"...The I.D. does not find on the Kundali of the door, any mark of violence of breaking the lock. The P.W. 4 has stated that he did not go to see if there was any sign of breaking the lock vide his statement in para-4.The broken lock and key was not produced to the I.O. and there is no any entry in the lock register about the broken lock. In the aforesaid circumstances, story of breaking a the lock and removing and putting he lock of the Union by the accused cannot be believed....." (Para-7 Page-3).*
- (f) *"..... The original station diary, which is the basis of F.I.R. has not been exhibited in Court during trial. As such the drawing of the F.I.R. and charge sheet Framed under Sec. 456 and conviction of the appellants under Sec.456 of I.P.C. cannot be sustained....." (Para 9 page 12)*
- (g) *"From the perusal of the evidence discussed above I find that no where there is any evidence that the accused committed criminal trespass with intention to commit offence to intimidate to insult or annoy the Bank Authorities ...."*
- "Therefore, the judgment and order and conviction of the Lower Court dated 16.09.83 is set aside and the appellants are acquitted from the charge U/s 456 of the I.P.C and they are also discharged from the liabilities of their bail bonds."*
- (viii) On being aggrieved, the Bank Management preferred Criminal Revision petition before the Hon'ble High Court at Patna against the order of acquittal passed by Addl. Distt. & Session Judge, Patna. After hearing both side, the Hon'ble High Court, Patna dismissed the Writ application and passed an order as follows:
- "After having gone through Judgment I do not find that the appellate Court has either overlooked the material evidence or has relied upon inadmissible evidence or the judgment is perverse or contrary to Law .The case has appreciated the evidence in right perspective and as such no ground has been made out for interference in revision against the judgment and order of acquittal. Accordingly, the application is dismissed."*
- (ix) It is further pointed out that Mr. S.M. Mishra, Regional Manager filed a case for occurrence took place on 05.12.1980 against five other co-workers but no complain was lodged against Shri Saini individually. The Management did not give opportunity to vacate the room, on the contrary, put him under suspension on 05.12.1980 and moved the court with malafide intention. As per pleading of workman, charge sheet was prepared by Mr.M.R. Sarvadhakari and Mr. K.D. Chakraborty, Ex. Advocate General, Bihar and not by Disciplinary Authority , and this leads to violation of Bipartite Settlement.
- (x) The workman also submitted that charge sheet was issued to him despite denial of approval of Competent Authority, i.e., General Manager. A letter was issued by the General Manager (H.Q) to the Chief Manager vide dt. 13.02.1981 to the effect that charge sheet dt. 2.2.1981 is not in consonance with Bipartite Settlement and also a departure from a draft charge-sheet. Thus in view of our non-approval for the aforesaid reasons the matter is left in entirely on your own risk and responsibility.

- (xi) The workman side submitted that the concerned workman committed no offence, never acted in indiscipline manner or misconduct. There was no willful insubordination or disobedience amounting to criminal trespass. As such the workman prayed for appropriate relief as deemed fit and proper.

6. Similarly, the gist of written statement filed by Management is as follows in brief :

- (i) That Management denied all allegations imposed by workman side from S.No. 1 to Sl. No. 17 in written statement /rejoinder filed by workman.
- (ii) That Shri R.S.Saini, concerned workman was rightly charge-sheeted on 02.02.1981 for his acts of misconduct committed on 04.12.1980 to 06.12.1980 which amounted to criminal trespass, willful insubordination and disobedience of the lawful and reasonable orders of the Superior officer and also abetment and instigation of riotous, disorderly and indecent behaviour.
- (iii) That in exercise of power in terms of clause 19(3) in chapter 1X of Bi-partite Settlement, the Bank Management initiated disciplinary action against Sri Saini in terms of charge sheet issued on 02.02.1981 for his misconduct and taken disciplinary action as per procedure of domestic inquiry.
- (iv) That the Disciplinary Authority, having gone through the reply of charge sheet of the employee and other relevant documents of the departmental inquiry along with report of Inquiry Officer, found Sri Saini guilty and accordingly awarded punishment under clause of 19.6 (d) of the First Bipartite Settlement, 1966, as following .

*“THREE INCREMENTS IN THE TIME SCALE OF SRI R.S.SAINI*

*BE STOPPED WITH IMMEDIATE EFFECT.”*

- (v) That Shri Saini was convicted by the Lower Court in the Case No. CR Case No. 1411/81 U/s 456 I.P.C. for criminal act but he was acquitted subsequently after he preferred appeal before Appellate Court . Thereafter, Management filed case before the Hon'ble High Court, Patna against order of acquittal of the workman concerned.
- (vi) That Bank has authority to initiate disciplinary action on charge sheeted workman in the same matter even if workman is acquitted by the Criminal Court.
- (vii) That workman's plea for exemption from punishment in view of verdict of acquittal of offence by the Court is not justified. It is also baseless, distortion of truth and glaring example of misrepresentation of facts and legal position.
- (viii) The approach of Criminal Court towards charge sheeted workman is entirely different from approach of Bank Management of the same offence. Therefore, an acquittal by a Criminal Court of accused person does not affect statutory right to adjudicate upon its implied misconduct for same facts and offence. Criminal prosecution and Departmental inquiry are two separate proceedings which are quite independent in their nature , as per bipartite settlement.
- (ix) That such departmental inquiry was conducted by Management in accordance with principle of natural justice and punishment awarded on same is lawful and as per terms of Bipartite Settlement.

(7) In course of hearing before this Tribunal Management adduced evidence of Mr.S.B.Chakraborty, Inquiry Officer (MW-I) before this Tribunal who was examined, cross examined in full and discharged. In course of deposition of MWI on preliminary issue, following documents were marked exhibited as follows:

- |  |                 |
|--|-----------------|
| (a) Charge sheet   | ..... Ext. M-1  |
| (b) Letter of appointment of Enquiry Officer                               | ..... Ext. M-2  |
| (c) Notice of Enquiry  | ..... Ext. M-3  |
| (d) A letter regarding constituting Departmental Enquiry                   | ..... Ext.M-4   |
| (e) Enquiry Proceedings papers   | ..... Ext.M-5   |
| (f) Signature of 1 <sup>st</sup> Enquiry Officer Viz. Pankaj Mishra        | ..... Ext.M-6   |
| (g) Signature of workman in Enquiry papers                                 | ..... Ext.M-7   |
| (h) Signature of Representative of workman in enquiry papers               | ..... Ext.M-8   |
| (i) Enquiry proceeding papers conducted by 2 <sup>nd</sup> Enquiry Officer | ..... Ext.M-9   |
| (j) Signature of Workman's Representative                                  | ..... Ext.M-10  |
| (k) Enquiry Report   | ..... Ext.M-11. |

- (8)(i) In course of deposition MW I before this Tribunal deposed that he was appointed as Inquiry Officer as Mr. Pankaj Tripathi who was his predecessor proceeded for training for one year . During cross examination the witness was silent over issuance of Circular regarding Authorized Disciplinary Authority and also expressed ignorance over the charge sheet issued was approved by Competent Authority or not. He also stated that he has no knowledge about the letter which is marked as X for identification.
- (ii) It is pertinent that this point was raised by the appellant during the departmental inquiry which has not been responded by the Management side during the inquiry and have also not been reported in the Inquiry Report submitted by the same Inquiry Officer present as witness before this Tribunal .
- (iii) He deposed that he conducted domestic inquiry giving ample opportunity to workman and after completion of inquiry he submitted inquiry report to Disciplinary Authority. Previously, one Mr. Pankaj Tripathi was Inquiry Officer who conducted inquiry but was incomplete and so cancelled.

9. During inquiry proceeding, representative of the workman raised dispute over issuance of charge sheet by one Mr. Raghunath Singh, In- charge Chief Manager who is not Competent Authority. Management side replied that he was competent authority in terms of Head Office Circular, Staff No. 22-23/1207 dt.15.04.1980 but contention of the workman is that this Head Office Circular Staff No. legal 25/23/1318 dt.07.09.1981 clearly indicates that Acting Chief Manager was only empowered to be as a Disciplinary authority w.e.f. 07.09.1981 and this provision also laid down as per Bipartite Settlement under clause 19.14 whereas charge sheet was issued to the employee on 02.02.1981. Accordingly, Mr.Raghunath Singh the then Acting In-charge Chief Manager got no status to act as Disciplinary Authority prior to 07.09.1981. Moreover, it has been pointed out by representative of workman that Chief Manager holds the post of SMG Scale IV but Raghunath Singh, was drawing MMG Scale III which is scale of a Senior Manager. However, it appears from the record that copy of the Circular dt. 07.09.1981 has not been filed by the Management.

10. In addition to above, it has been observed from inquiry papers that representative of the workman called for material documents from Management and also requested to provide two officers of Bank as witnesses for cross-examination for end of justice but Management neither filed the called for documents nor produced any witness as called for.

11. In the subsequent written argument also , filed by workman side , it has been stressed and alleged that the Senior Manager in the capacity of Acting Chief Manager is an unauthorized officer to issue charge sheet, which is utter violation of 19.14 of the 1st Bipartite Settlement as charge sheet can be issued by a person who is Appointing Authority that is Chief Manager. He also raised objection over the inquiry on the ground of non approval of charge sheet by Head Office on reference. He further alleged that he called for two letters dated 13.02.1981 and 02.03.1981 which was material documents for the interest of justice but Management did not produce those either during Inquiry proceeding or during the trial before this Tribunal, which shows the biased attitude of the Management.

12 It was also contention of workman that Management delayed the matter deliberately.

13. It has been also alleged that Management denied to produce material witness in course of domestic inquiry and as such workman side has been highly prejudiced as same is not in consonance with principle of natural justice.

14. It is further alleged that Bank illegally conducted the domestic enquiry and in spite of acquittal from Appellate Court and the Hon'ble Court of High Court, Patna for the same charges similar to the domestic inquiry, he was punished causing imparable loss and also put him into embarrassing position in Society. He has placed his reliance in this regard on this Para 505 of Shastri Award which states as following

*"We are very particular that of verdict of acquittal passed by a competent court of Law should not be lightly thrown aside by Bank Management in trying to institute Departmental enquiries after acquittal."*

15. The workman relied upon various judgment passed by different Hon'ble Courts on the acquittal by Court of Law in criminal cases on the similar charges as in the departmental inquiry

- (i) In this context, case of Gorge Verghese and F.C.I. of India in W.P.NO. 7108/1981 is very relevant where the Hon'ble High Court of Madras observed as follows:

*"Allowing the Writ petition and quashing the charge memo held, 'It will not be open to the Department to resurrect the same old charges on which the employee faced a criminal trial and was acquitted, to proceed departmentally. There was no denial that the charges in criminal court and memorandum of charges served on the employees are identical. if this be so, there is absolutely no jurisdiction on the part of the Management to proceed departmentally."*

- (ii) Similarly in other Case of Prem Singh Vs. State of Punjab & Haryana in Appeal No. 897 dt. 12.10.61, the Hon'ble High Court of Punjab & Haryana observed as follows:

*"The formal order of his reinstatement was passed because on appeal, he was acquitted of that Criminal charge... .. in view of that matter under rule 7.5, the Competent Authority had no option but to rei-instate the plaintiff in service with full back wages for the period of his suspension."*

- (iii) Likewise he referred other cases wherein the alleged petitioner was exonerated from punishment after acquittal from the Court of Law. So he made prayer to exonerate from charges inflicted upon him by the management declaring charge sheet vitiated, null and void and also bad in law.

16. The Management side also filed written argument on 21.01.2021 during the camp court hearing at Patna, and

- (i) apprised of the fact that Allahabad Bank is amalgamated with Indian Bank vide Gazette Notification No. 133C( GSRE) dt.04.03.2020 and stated that law will be enforced by transferred Bank (Indian Bank) from date of effective .
- (ii) further stated that schedule of reference case is misleading and misconceived. Management side reiterated that for occurrence happened on 04.12.1980 at 8 p.m. wherein charge was inflicted upon the R.S.Saini and others that they unauthorisedly occupied room of Bank to open Union Office, locked the room on 04.12.1980, and as such a case was initiated against him and others before the Court under 144 of Cr.P.C. Against the misconduct, charge-sheet was framed and having not found satisfactory reply by workman,, domestic inquiry was conducted and found him guilty by disciplinary authority and imposed punishment of stoppage of three increments in Time Scale.
- (iii) management in his written argument, relied upon Judgment passed by Hon'ble Supreme Court wherein it has been stated that acquittal by the Criminal Court does not preclude a Department inquiry against the applicant. The standard of proof in departmental inquiry is not strictly based on the rules of evidence.
- (iv) that Management also referred to the Judgment delivered by the Hon'ble Apex Court in B.C. Chatrudavdi Vs Union of India case and also stated that when inquiry is conducted in the charges of misconduct, the Tribunal is concerned to determine whether inquiry was held by a Competent Authority or rules of natural justice are complied with or not.
- (v) similarly the Management referred other cases viz S.B.Singh Vs. State of UP (2011) 9SCC 94, Nelson Motis Vs. Union of India and West Bokaro Collieries of M/s TISCO Vs. R.P.Singh (2008)= 3, SCC729 of the Hon'ble Apex Court.
- (vi) management quoted different cases and appreciated that it is well settled principle of Law that yardstick and standard of proof of case of domestic inquiry is different from Court of Law. Domestic inquiry is based on preponderance of probability, principle of natural justice but in the Court of law, prosecution has to prove beyond all reasonable doubts with evidence and documentary proof and such Management prayed before the Tribunal to answer the reference in favour of Management being devoid of merit of demand of workman.

17. On perusal of the submissions filed by both sides as above, record of the inquiry proceedings of the Departmental Inquiry, inquiry report submitted by the Inquiry Officer and the relevant documents available on record both during the Departmental Inquiry proceedings and the proceeding before the Tribunal , following pertinent questions emerged with their plausible answers to have insight in relation to the dispute raised with following reference by Government of India.

*"Whether action of the Management of Allahabad Bank in imposing penalty of stoppage of three increments on Shri R.S.Saini notwithstanding his acquittal by Appellate Court and revision petition filed in Patna High Court is justified, if not, to what relief is the workman entitled"*

18. Validity of the Charge sheet dated 02.02.1981 issued by the Responding Authority- Allahabad Bank to the workman (charged Employee) for instituting the departmental proceeding for the alleged act of misconduct .

- (i) During the preliminary stage of the Departmental Inquiry proceeding on 20.11.1985, the workman (charged employee) raised objections on proceeding with the inquiry primarily on the basic ground related to the inquiry proceeding itself that the officer (Shri Raghu Nath Singh) who issued the charge sheet dt.02.02.1981, being the Acting Chief Manager, was not the Disciplinary authority and so not competent to issue the referred chargesheet. Being the Acting Chief Manager , though he had falsely and intentionally signed the charge sheet as the Disciplinary Authority and Chief Manager, knowing well that he was not appointed as Disciplinary Authority as per the provision of 1<sup>st</sup> Bipartite Settlement

clause 19.14. He further referred following documents and arguments in support of his point regarding the matter of issue of the said charge sheet by a Non-Competent Authority.

- (a) Sh. Raghu Nath Singh was warned by Head Office vide their letter No. ADM/LO/1346 dt. 13<sup>th</sup> Feb., 1981 that charge sheet served upon Sh R.S.Saini was not in consonance with the Bipartite Settlement as such they were unable to accord approval. The above said referred letter reads as follows:

ALLAHABAD BANK

H. O. Calcutta

GENERAL MANAGER ADM /LO 1346

13.2.1981

The Chief Manager ,

PATNA

Dear Sir ,

### CHARGE SHEET SHRI R S SAINI

*"With reference to your letter No. EST.474 of 03.02.81, please note that we are unable to accord our approval to the chargesheet dated 2.2.1981 addressed to Shri R.S.Saini ,sent by you ,as the same is not in consonance with the Bipartite Settlement and is also a departure from the draft charge- sheet which was prepared by Shri Sarbadhikari ,when he had been to Patna last .*

*Thus, in view of our non-approval for the aforesaid reasons , the matter is left entirely at your own risk and responsibility."*

*Yours faithfully,*

*Sd/By illegible*

GENERAL MANAGER

- (b) As per Head Office Circular No Staff No. Legal 25/23/1315 dt. 07<sup>th</sup> Sept.,1981 Shri Raghu Nath Singh could work as Disciplinary Authority only with effect from 07<sup>th</sup> Sept., 1981 whereas the chargesheet was signed and issued by him as Disciplinary Authority prior to this effective date, that is, 02.02.1981 , and it is worth mentioning that this Head Office Circular was issued to cover the misdeeds of Shri Raghu Nath Singh.
- (ii) The workman (charged employee) requested the Inquiry Officer to call for the above referred two letters. On this the Presenting Officer of the Bank during this departmental proceeding asked for time to submit the reply on behalf of the Management /Bank.
- (iii) On 05.12.1985, Presenting Officer on behalf of the Management submitted that at the relevant time when the charge sheet in question was issued the status and Authority of the Acting Chief Manager and the Chief Manager was the same and Sh. Raghu Nath Singh was competent to take disciplinary action in terms of Head Office circular Staff No 22/23/1207 dt. 15.04.1980. This was marked as Ext.M.5 . Regarding the referred Head Office Letter No.ADM/LO/1346 dt. 13.02.1981 addressed to Chief Manager, Patna Branch the Presenting Officer submitted simply that Sh. Raghu Nath Singh had issued the charge sheet as Disciplinary Authority. He failed to comment on this referred letter Head Office dt.13.02.1981.
- (iv) The charged employee (workman) further submitted during the inquiry proceeding dt.05.12.1985 before Inquiry Officer in presence of the Presenting Officer of the Bank/management. Head Office Circular Staff No. Legal/25/23/1315 dt. 07.09.1981 clearly indicates that the Acting Chief Manager was only empowered to be disciplinary authority from 7<sup>th</sup> Sept., 1981 not before that. This provision is also laid down in Bipartite Settlement clause 19.14 and the Management's contention that the Acting Chief Manager was empowered to take disciplinary action like the Chief Manager is totally a lie with malafied intention which is illegal. Further Shri Raghu Nath Singh has impersonated himself as Chief Manager being M.M.G. Scale -III officer where as Chief Manager is the post for Senior Managment Grade Scale IV Officer. Not only that, Shri Raghu Nath Singh has also been warned by the General Manager that the Charge-sheet in question is not in consonance with the Bipartite Settlement. It is further clear from Ext. D-I he (Raghu Nath Singh) entertained police and Magistrate for getting the charged employees prosecuted at the cost of public money which amounts to misuse of his official position in view of the Head office Circular No. Adm/LO/1346 dt.13.02.1998 addressed to Chief Manager, Patna and charge sheet is not in consonance with bipartite settlement it is needless to give any more evidence.
- (v) P.O. submitted that position of Disciplinary Authority goes by post. Head Office circular Staff No. Legal 25/23/1315 dt.07.09.1981 nominating Acting Chief Manager as Disciplinary Authority

is effective from 07.09.1981. Before issuance of this circular the status and authority of the Acting Chief Manger and Chief Manger was the same. Accordingly, Sri Raghu Nath Singh had issued the charge sheet as Disciplinary Authority

- (vi) The Inquiry Officer recorded his opinion/decision on this contentious point as following:

*“Heard the argument and counter argument raised on the competence or otherwise of Sri Raghu Nath Singh to issue the charge sheet under reference, I as enquiry officer feel that this is not the forum and stage when enquiry officer should enter into controversy of the competence of the Disciplinary Authority as the E O is primarily required to find out the facts about the charges and imputations brought against the C.E. As such I direct the P.O. to produce the list of documents and witnesses by whom the articles of charge are proposed to be proved.”*

19. Findings and conclusion arrived by the Inquiry Officer during Departmental proceedings based on evidences brought before him -

Since the Inquiry Officer has concluded his findings in the inquiry report proving 1<sup>st</sup> charge only and not the 2<sup>nd</sup> charge concentration is given by this Tribunal only on the basis on which the ‘article of charge –I’ of the charge sheet dt.02.02.1981 has been established by the Inquiry Officer in his inquiry report with reference to the evidences recorded during inquiry. Charge I is reproduced below for the sake of ready reference and discussion.

*“1. That on 4.12.1980 at about 8 p.m. you forcibly occupied a room at the Patna Branch, broke open the Bank’s lock and put your own lock as well as fixed up a sign board displaying N.C.B.E. on 5<sup>th</sup> December, ’80 you were asked in writing vide letter No. BST/291 of 5<sup>th</sup> Dec., 80 to vacate the said room by removing your lock and sign board by 5 p.m. You were also called by the Regional Manager, Patna who requested you to vacate the room. But you flatly refused to vacate the said room and threatened him with dire consequences, if the Management made any attempt to re-occupy the said room.”*

- (i) Altogether three witnesses have been examined and cross-examined and the statements made by these witnesses have been recorded in the Inquiry Proceedings Register and the gist of witnesses’ statements have also been recorded in the inquiry report dt.12.11.1986 by the Inquiry Officer Shri S. B. Chakraborty.
- (ii) The three witnesses from the management side who were examined /cross examined during the Inquiry are the following.

Sl. No.	Witness	Name	Designation
1.	MW-I	Shri Raghu Nath Singh	Ex-Chief Manager and Ex-Regional Manager, Patna
2.	MW-II	Shri Munnar Prasad	Armed Guard, Patna Branch
3.	MW-III	Shri Ramagya Singh	Ex-Manager (Development) Regional Office, Patna

- (iii) The workman (Charged employee) had proposed few names of witnesses for examination but were not considered relevant by the Inquiry Officer giving necessary clarification in that regard in course of inquiry proceedings. As such no witness from charged employee side was examined during the inquiry proceeding.
- (iv) Deposition made by MWI Shri Raghu Nath Singh cannot and should not be considered as material witness for arriving at the independent findings through inquiry as the MW I Shri Raghu Nath Singh has been alleged by the charged employee as biased authority and more so when charge sheet was issued by him only and that also his authority as Disciplinary Authority had been questioned by the charged employee. Since MW I has issued the charge sheet his examination as witness should be limited to finding only to the extent that whether the charge sheet has been signed by him and he has applied his mind diligently before issuing charge sheet. He is not eye witness also otherwise and has acted only on the report submitted by MW-2 who incidently was also not the eye witness in this case. As such his (MW-1) statements during examination/cross examination as witness should not be considered as reliable witness and his statements cannot be treated as material evidence for arriving at the finding and the conclusion by the Inquiry Officer.
- (v) Similarly MW-III Shri Ramagya Singh has been examined and cross examined mainly related to the incident in relation to charge No.2 which could not be proved by the Inquiry Officer. Regarding Charge no 1 he has stated only what he heard from his senior officers and was not an eye witness to incident related to charge 1 except that on casual round he found one lock at the disputed room door. Some aspersions has also been cast against him during cross examination regarding his association

and closeness with Shri Raghunath Singh and being biased against the charged employee as he has given evidence against the charged employee on earlier occasions also and he has admitted for such evidences earlier . Under the above circumstances and also that he is not an eye witness, rather his statements made on hearsay basis by others, to the incidents resulting into framing of charge 1 of the charge sheet and that charge 2 has not been proved by Inquiry Officer he is not considered material witness with his statement for discussion here for proving Charge No 1.

- (vi) The deposition made by MW-II Shri Munnar Prasad, Armed Guard, Patna Branch during examination/cross examination and recorded by the Inquiry Officer as verbatim in Record Book of inquiry and his own inquiry report is the only material evidence , as on his complaint on the incident related to charge- I has been made the basis for initiating action against the charged employee and the said charge sheet has been issued.
- (vii) Therefore, it is worth reproducing here the statement of MW-II Shri Munnar Prasad, Armed Guard, Patna Branch as recorded by the Inquiry Officer in his inquiry report , which is a gist of his statements recorded in the inquiry register , is as following (Verbatim of statement of MW-2 is available in Record Book of Inquiry and perused by this Tribunal for analysing the findings).

“

1. *That he does not remember his duty hours on 04.12.1980 (Page 6 of New Enquiry Register)*
2. *That he does not remember whether the incident took place on 04.12.1980 or 05.12.1980 (It was Friday)*
3. *That the Chief Manager of the Branch told him that a room of the Branch had been locked up and asked him as to who had locked that room to which he replied that he had not seen any one locking the room (Page 7 of New Enquiry Register).*
4. *That on that Friday he was on duty as Armed Guard but the hours of duty he cannot now remember (Page 7 of New Enquiry Register).*
5. *That the statement (Ext. 4) dt. 05.12.1980 is in his hand writing and signed by him (Page 7 of New Enquiry Register).*
6. *That at 9 p.m. the Head Peon Shri Ram Nath Singh called him from his Quarter and the Chief Manager Shri Raghu Nath Singh in the premises of Shri R. S. Srivastava dictated to him the statements contained in Ext. 4 and asked him to endorse his signature thereon (Page 7 of New Enquiry Register).*
7. *That Ext. 6 is the photo stat certified copy of his deposition before the court in lock breaking case) (Page 8 of the New Enquiry Register).*
8. *That during the relative period Industrial relation at Patna Main Branch was strained (Page 8 as NRP).*
9. *That he wrote and signed Ext. 4 as he thought that the case would not be moved to Court and he was assured that he would also be freed from the charge sheet issued to him by the Court (Page 8 NRP).*
10. *That he was exonerated from the charges by the Court in Dec., 1982 (Page 8 NRP).”*

20. As regards the trial of criminal case filed in Court of Law on similar incident and charges as in the departmental proceedings the contention of the workman and the counter contention of the O.P. (Allahabad Bank) supported by the citation of various Court orders in this regard by the respective parties it is pertinent to consider the submissions made in this regard as both the criminal case and charge no. 1 of the departmental charge sheet relate to same alleged incidents . On perusal of the submissions made following points emerged for consideration.

- (i) The Management has taken cognizance of both the orders of conviction by the Lower Court and acquittal by the Appellate Court in the FIR filed under Case No. GR-1411/1981. The Management also filed revision petition before the Hon'ble High Court, Patna against the acquittal order passed by Addl. Distt. & Sessions Judge, Patna (Appellate Court in this case) when the inquiry proceedings were underway. Subsequently in the year 1996, the Hon'ble High Court, Patna dismissed the said Criminal Revision Petition filed by the Bank and passed following order .

*“After having gone through the judgement I do not find that the Appellate Court has either overlooked the material evidence or has relied upon inadmissible evidence or the judgement is*

*perverse or contrary to law. The court has appreciated the evidence in right perspective and as such no ground has been made out for interference in the revision against the judgement and order of acquittal. Accordingly the application is dismissed”*

- (ii) The workman side submitted citation of various judgments of Hon’ble Courts emphasizing that if the charges in Criminal Court and Memorandum of charges served on the employees are identical and if acquittal in the Criminal trial there is absolutely no jurisdiction on the part of the Management to proceed departmentally.
- (iii) The workman side has also cited and placed his reliance in this regard on the observations passed by Shastri Award under the provision/para 505 which reads as following:

*“As already stated we have tried to follow the regulations prescribed by the Sen Tribunal with modifications. We are very particular that a verdict of acquittal passed by a Competent Court of law should not be lightly thrown aside by the Bank Management in trying to institute departmental enquiries that the acquittal, as it would amount to a double trial in respect of the same offence. We have occasionally come across instances where a Bank Management has persisted in its application under Sec.33 in spite of acquittal by an Ordinary Court of the land after a full trial. The decision of our Courts are entitled to be highest respect and the Bank Management should reinstate an employee who is honorably acquitted and pay him his full salary and allowances. The acquittal should not be lightly challenged by departmental enquiries for disciplinary action unless the Bank Management feels that there has been such a gross violation of the departmental rules as to reinstate a further enquiry in interest of the institution no matters other than those in respect of which he has been acquitted. If after the departmental enquiry the Management still feels that the employees cannot continue in its service it can terminate his services only on payment of three months’ salary and allowances in lieu of notice.”*

- (iv) The Hon’ble Court cases cited by the Management side relate mostly for the cases where the matter of removal/discharge from the service is concerned in which it has been held that the Management may have its own decision as per departmental proceedings even if the employee has been acquitted by Court of law in criminal trial.
- (v) Both the workman and Management sides have placed reliance on the provisions of the Bipartite Settlement 1966 to which the concerned workman’s conditions of services are governed and as such the relevant provisions of the Bipartite Settlement will be pertinent to be mentioned and discussed while appreciating the instant case. The provisions of the Bipartite Settlement 19.3(d) reads as following.

*“if he prefers an appeal or revision application against his conviction and is acquitted in case he had already been dealt as above and he dealt with as above and he applies to the management for reconsideration of his case, the management shall review his case and may either reinstate him and proceed against him under the provisions set below in Clauses 19.11 and 19.12 infra relating to discharge... ..”*

- (a) The provisions of Clause 19.11. and 19.12 deal with the procedure for disciplinary action and need not be emphasized by quoting the same.
  - (b) In the above provisions also the emphasis on the situation of discharge from the service is made in case of acquittal from the Court of Law in criminal trial.
- (vi) Whereas in the instant case the Management has not found the case in the departmental proceedings fit for discharge or removal from the service rather worth continuance in the service with some form of punishment. As such non-cognizance of acquittal by the appropriate Court of law for the employee facing prosecution and totally brushing aside the findings of the Court for the reasons of acquittal does not seem to be appropriate in the instant case where the very basis of filing prosecution for criminal trial is the same and similar to the charges framed in departmental proceeding that has been thrashed by the Appellate Court of law in the criminal trial for the same charges as in the departmental proceeding, and that also when the Hon’ble High Court has dismissed the Criminal Revision petition filed by the Bank against the said order of acquittal of the charged employee by the Appellate Court.
- (vii) The cited Court cases from the Management side also related to the cases in which the decision of departmental proceedings for discharge/removal from the service has been taken prior to the acquittal order passed by Court of law.



- (viii) The Management has not been able to produce any document or given any statement either during the inquiry proceeding or during the proceeding before this Tribunal that the management has considered the request of charged employee to drop the departmental proceeding based on his acquittal from the Court of Law for the same charges and has communicated the decision of the Management to the charged employee to that effect. Under the above circumstance it is strongly felt the management has failed in performance of his duty towards the charged employee at this stage on this matter and has proceeded with the ongoing inquiry on its own way which tantamount to denial of natural justice and transparency which was very much required at this stage and disregard to the Court of Law including Hon'ble High Court as no action / consideration on this Court's order seem to have been taken for review of the matter after dismissal of petition .
- (ix) As per discussions and findings it is inferred that the decision of the Management in not taking the cognizance of decision of Court of law acquitting the charged employee or shown regard to the order of the court even by referring this order of the court in any of its communications to the charged employee on departmental proceedings cannot be considered as a justified action.

21. Now summing up with conclusion on the submissions from both sides recorded as above and the relevant aspects in this case as discussed in earlier paras it is emerged that entire issue moves around three major considerations :- i. Validity of charge sheet on the basis of its issuance by Competent Authority or not , ii. Justification of the findings by the Inquiry Officer in its inquiry report based on the evidences brought before the Inquiry Officer during the inquiry proceedings, and iii. Justification of the decision of Allahabad Bank Management in not considering the status of acquittal of the charged employee in the matter of criminal trial by the Appellate Court for the same charges as in the instituted Departmental proceedings.

#### (i) VALIDITY OF CHARGE SHEET

- (a) As regards the validity of the charge sheet dt.02.02.19081 issued to the workman (Shri R.S. Saini), the charged employee , for instituting departmental proceedings for the incidents said to have taken in Bank premises from 04.12.1980 to 06.12.1980 is concerned it has been apparently clear from the submissions made by the charged employee during departmental inquiry proceedings and proceedings before this Tribunal with documentary evidences and plausible arguments that : hri Raghu Nath Singh Officer of the Allahabad Bank who issued the said charge sheet dt.02.02.1981 was an officer of Grade Scale III of the Banking Service on 02.02.1981 and was working as Acting Chief Manager of Allahabad Bank, Patna Branch in which the charged employee was working at the relevant time of occurrence of the said incident and the date on which the charge sheet was issued .
- (b) As per the produced and exhibited documents as Ext.M-5 during the Disciplinary Inquiry proceedings .i.e., head Office Circular Staff No. 22/23/1207 dt.15.04.1980, the Chief Manager of Patna Branch of Allahabad Bank has been authorized to function as Disciplinary Authority in case of Patna Branch of Allahabad Bank .It is worth noting that Shri Raghu Nath Singh who issued the charge sheet was functioning as Acting Chief Manager on the crucial date 02.02.1981 and not the Chief Manager (Senior Management Grade Scale –IV).
- (c) The Acting Chief Manager of Allahabad Bank, Patna Branch has been nominated and designated as Disciplinary Authority vide Circular Staff NO. Legal/25/23/1315 dt.07.09.1981 which becomes effective only from the date of issue of the circular, i.e., 07.09.1981 , whereas the said charge sheet was issued on 02.02.1981, i.e., prior to the date of issue of this circular.
- (d) The Presenting Officer during departmental proceeding has not refuted the documents cited, submissions and arguments by charged employee on this vital point of dispute during the inquiry proceedings rather has orally stated before the Inquiry Officer that status of Acting Chief Manager and Chief Manger is the same and as such the charge sheet dt. 02.02.1981 has been issued by the Competent Authority . He failed to support his above contention submitted orally with any documentary evidence validating his own above contention that the status of the Acting Chief Manage and Chief Manager is the same and that the Acting Chief Manager was competent to issue to said charge sheet on 02.02.1981 being the Competent Disciplinary Authority.
- (e) It is a matter of common knowledge that any organization being the Government or Union Undertaking , like Allahabad Bank, does not function by some oral talk only but through written rules in the form of orders, circulars, instructions, etc. Accordingly, without support of any document like circular or order in this regard authorizing the Acting Chief Manager as the Disciplinary Authority similar to Chief Manger such oral statement by Presenting Officer on behalf of the management during Inquiry Proceeding has no bearing and cannot be considered as authentic

. The above view taken is also supported by documentary evidence in the form of cited Circular dt.07.09.1981 through which the Acting Chief Manager of Patna Branch of Allahabad Bank has been delegated and nominated as Disciplinary Authority for Patna Branch and as per this cited and non-refuted Circular dt.07.09.1981 the Acting Chief Manager of Patna Branch officially and legitimately acquires the role and incumbency of Disciplinary Authority for Patna Branch of Allahabad Bank.

- (f) From the records produced before the Inquiry proceedings and during proceeding before this Tribunal it has also surfaced that the charge sheet has been prepared not only by the outside officer of Patna Branch but also with the interference of one Shri K.D.Chatterjee, Advocate and outsider from the Bank. As such, it is apparent that application of mind by the Authority who has issued the charge sheet has not been applied.
- (g) It is also proved through the documentary evidence produced before the Inquiry Officer during the departmental proceedings and before this Tribunal that charge sheet issued to the charged employee has not been approved by the General Manager of Head Office of the Bank to whom proposal had been sent for approval of the said charge sheet after issue of the concerned charge sheet. From this incident it also becomes apparently clear that Shri Raghu Nath Singh who issued the charge sheet dt.02.02.1981 must not be the competent authority to issue the charge sheet as Disciplinary authority otherwise why request for approval of the said charge sheet would have been forwarded to a Senior authority of Head office because the competent Authority would not send the charge sheet issued by him to higher authority than him for approval of the chargesheet in first place.
- (h) From the above findings it is decidedly concluded that the charge sheet dt.02.02.1981 being a subject matter of the Departmental Inquiry proceeding has not been issued by a Competent authority with application of mind and so this very charge sheet dt.02.02.1981 issued to charged employee (the workman) is liable to be quashed.

## (ii) FINDINGS AND CONCLUSION OF INQUIRY OFFICER

- (a) Coming to findings and conclusions made by the Inquiry Officer in his Inquiry Report dt.12.11.1986 it is the fact of record from the Record Book of the subject inquiry proceedings and the gist of evidence and the statements made by the witnesses that the witness of MW-2 Shri Munnann Prasad, Armed Guard of the Patna Branch is the only relevant witness to be considered for examination as already discussed in previous paras of this Award.
- (b) It is the written complain signed by Shri Munnann Prasad on 05.12.1980 which has laid foundation to initiate action by the Acting Chief Manager of the Bank leading to departmental proceedings. Shri Munnann Prasad, Armed Guard of the Patna Branch of Allahabad Bank has very categorically and unambiguously stated before the Inquiry Officer during the Inquiry proceedings that he was called from his residence on 05.02.1980 and was told by same Shri Raghu Nath Singh who issued the charge sheet that one room of the Bank premises has been locked last night (04.12.1980) by the charged employee and few others. He has categorically stated that he had not seen anybody locking the said disputed room. He was dictated by Shri Raghu Nath Singh to write a complain and endorse his signature with the statement that Shri R.S. Saini, the charged employee and few others have locked the room in the night of 04.12.1980. He had also declared and stated that he was allured and influenced by Shri Raghu Nath Singh to give the above written complaint and by doing this he will make him free from some other charges going on against Shri Munnann Prasad in the Court of law. He also submitted that he had stated the same above fact before the Appellate Court as witness.
- (c) In a way MW-II, Shri Munnann Prasad had turned hostile but the management did not declare him as hostile witness and this fact has also been pointed by the charged employee. MW-II also disclosed to Inquiry Officer that industrial relation in the bank was very strained specially with the union leaders. This is important to note here that the charged employee was also an union leader.
- (d) As regards examination of evidences and analysis of the evidence the findings of the Inquiry Officer it will be very appropriate and relevant to reproduce the first para of the analysis as given below.

### “ANALYSIS OF EVIDENCES

*I have carefully examined all the evidences –oral as well as documentary – adduced before the Enquiry Proceedings held by my predecessor Enquiry Officer Shri Pankaj Mishra and by me. Shri Munnann Prasad, Armed Guard, is the key prosecution witness in as much as his written complaint*

(Ext. 4) tendered to Chief Manager, Patna Branch is the edifice on which the entire structure of the charges against the Charge Employee rests. During the enquiry he has confirmed the complaint dated 5.12.80 to have been written and signed in his own handwriting. But, at the same time, he has stated that the contents of the complaint have been dictated by Shri Raghunath Singh, Chief Manager, and he did so on assurance from the Chief Manager that the Chargesheet pending against him in the court would be withdrawn and he would be freed. In support of his assertion Shri Munnar Prasad has stated that the Chief Manager had subsequently withdrawn the case against him."

- (e) From the above recorded testimony of Inquiry Officer the most pertinent question arises "THEN WHERE AND WHAT IS THE EVIDENCE TO PROVE THE CHARGE ON THIS ACCOUNT?"
- (f) Prevailing INDUSTRIAL RELATIONS IN ALLAHABAD BANK, PATNA
  1. At this stage it is also pertinent to discuss the prevailing strained industrial relation in Allahabad Bank, Patna as recorded in the report of Inquiry Officer based on the statement made by the key witness. From the submissions made by workman side and also the inquiry proceedings record that the industrial relation in the Bank was very tense specially with the union leaders and activists.
  2. It is also the case of inter union rivalry in the Bank. One union is recognized and enjoying the privileges provided by the Bank Management, written or unwritten, whereas the other union to which this concerned workman was the leader was unrecognized and rival to the recognized union of the Bank. Other union also aspires and claims to have similar status and privileges enjoyed by the recognized union, official or unofficial.
  3. Above facts are also reflected through the quoted representation dt. 01.12.1980 of the concerned union submitted to the Regional Manager of the Bank in which along with the allegations of corruption by the Management and irregularities in administration allegation of favour towards the recognized union and its leaders has also been highlighted.
  4. Although no direct linkage of cause and effect relation could be established circumstantial evidences throw light towards that in as much as all actions against this workman in this case have started after that representation to Regional Manager dt. 01.12.1980 only as the then Regional Manager Sri Mishra has deposed before the appellate court that the sign board of NCBE (union belonging to Shri Saini) was already installed in Bank premises when he joined this office on 27.10.1980, but complaint was obtained from Armed Guard Shri Munnar Prasad on 05.12.1980 for the said incidents of breaking of Bank lock, fixing another lock and putting a sign board of Union (NCBE) by charged employee and his fellow members on 04.12.1980 night, letter for surrender of the disputed room, suspension of charged employee, filing of police complaint, issue of chargesheet, etc took place immediately after the date of such representation (01.12.1980).
  5. It also appears that the local Bank Management was determined to take actions against this union and its leader Shri Saini, otherwise in normal situation any senior officer of the bank would abide by the written directions, advice and suggestions of his superior authority of General Manager level of Head Office, but despite denial of approval with reasons for non approval of the said charge sheet the same was continued and proceeded with showing total disregard to the decision of such a senior authority of the Bank. Even the police case was filed and criminal case filed was persuaded upto Hon'ble High Court level even after acquittal by the Appellate Court. It is also worth mentioning that the petition of the Bank was dismissed by Hon'ble High Court justifying the decision of the court below. In normal situation such multiple actions by the management against its own employee are not seen except in cases of very serious and grave crime.
  6. On in-depth consideration of above factual observations it is apparent that all actions, including coercive, against the workman (charged employee) seems to have been initiated only after submission of the said representation dt. 01.12.1980 by this union led by Shri Saini to R. M. of the Bank and such circumstantial evidences tilts toward contention of the workman side that all actions have been initiated against him in retaliation of submission of representation dt. 01.12.1980 with its contents.
- (c) From the above statement from the material witness nowhere it reflects that the charged employee has committed the misconduct for which he has been charged through the charge sheet and faced

the departmental inquiry proceedings. It is also not clear and proved that lock was broken and another lock was put by charged employee on the alleged date of incident, 04.12.1980. It goes beyond imagination as to how the Inquiry Officer has concluded with the findings that the charge-I of the Charge sheet is proved against the charged employee when no element in the article of charge-1 is proved either through any documentary evidence, or oral evidence or through any reliable witness. Rather the written complaint of MW-II, the very basis of initiating disciplinary actions have been proved to be written and submitted on dictation by the charge sheet issuing person and by alluring him with relief from the criminal case he is facing in some another case. This is also proved that the MW-II was freed from that criminal case after some time. From the above findings it is evidently clear through record that the findings and conclusions of the Inquiry Officer, without any evidence for that conclusion such as statements from the witnesses or any documentary evidence, is not supported with the facts brought during the inquiry and as such the inquiry report is treated as vitiated and also liable to be quashed.

(iii) ACQUITTAL BY APPELLATE COURT ON SAME CHARGES VIS A VIS PUNISHMENT INFLICTED THROUGH DEPARTMENTAL PROCEEDINGS

- (a) Concentrating on the reference by the Government of India in this Industrial Dispute Case it is relevant to reproduce the Schedule of Reference for examining the merit in this case and to find out the justification of the actions taken by the Management of Allahabad Bank.

**Schedule of Reference**

*“Whether action of the Management of Allahabad Bank in imposing penalty of stoppage of three increments on Shri R.S.Saini notwithstanding his acquittal by Appellate Court and revision petition filed in Patna High Court is justified, if not, to what relief is the workman entitled.”*

- (b) It is of common observation that the Management very easily, casually and without going into the details with merit in the order of acquittal by the Competent Court for criminal trial ignores and brush aside the order of the acquittal by the Court in the matter of even if similar charges and the charges leveled in the ongoing or to be instituted departmental inquiry proceedings on the stand of Cardinal dictum that there is no bar for either continuance of the inquiry/trial before the Departmental Inquiry or before the Criminal Court or even instituting fresh departmental inquiry after order of acquittal passed by appropriate Court of Law on the matter of similar charges. It is commonly said and applied that both the trials can go simultaneously and also side by side.
- (c) On this point observation under clause 505 of Shastri Award applicable for Bank Employees is worth mentioning to be recalled, as reproduced earlier, for further insight in the matter.
- (d) Now coming to the instant case the observation made by the Hon’ble Supreme Court in its order in Civil Appeal No. 7729 of 2019 (arising out of SLP (C) No. 25909 of 2013 in the matter of Karnataka Power Transmission Corporation Ltd., Vs. C. Nagraju & Anr. seems to be most appropriate to be referred and quoted here as judgment in this case has cited the judgments and facts of the cases both in support and against the employee or the management respectively. This court case has been referred by the Management in support of its contention that acquittal by the Appellate Court has no bearing on decision of Disciplinary Authority in the departmental inquiry proceedings and justifying the action taken by the management even if acquittal of the charged employee by the appropriate Court of appeal.
- (e) From the above cited court case of Hon’ble Supreme Court the observations and orders made by Hon’ble Supreme Court in the judgment in G.M.Tank (Supra) is recorded below:-

*“In the appeal filed by the delinquent officer, this Court was of the opinion that the departmental proceedings and criminal case were based on identical and similar set of facts. The evidence before the Criminal Court and the departmental proceedings being exactly the same, this Court held that the acquittal of the employee by a Criminal Court has to be given due weight by the Disciplinary Authority. On the basis of that the evidence both the criminal trial and departmental enquiry are the same, the order of dismissal of the Appellant therein was set aside.”*

- (f) The observations and decisions cited by the Apex Court in the case with reference to judgment in G.M. Tank (Supra) are very much relevant and applicable in the instant Industrial Dispute case before this Tribunal as the charges and evidences before the Appellate Court and the departmental inquiry proceedings are found the same as per the documents filed and discussed.

- (g) It is also worth referring that Hon'ble High Court, Patna in its order dt.06.12.1996 in Cr. Revision No. 702 of 1985 have dismissed the Revision Petition filed by the Management of Allahabad Bank against the order of acquittal passed in Cr. Application No. 386/803 by the Appellate Court by which the charged employee has been acquitted for offence under Sec. 456 I.P.C.. The order is produced below for reference .

*“According to prosecution case the Opposite Parties are silent to have taken forcible possession of new Building in the Bank premises and fixed a Sign Board of the Union.*

*The Trial Court after having considered the evidence on the record convicted the Opposite Parties under Sec. 456 I.P.C. and sentenced to undergo imprisonment for three months .The Appellate Court has acquitted on the ground that the said dispute before the Union and the prosecution failed to prove the ingredients of offence under Sec. 456 of I.P.C.”*

- (h) It is a matter of record that Management has taken the plea during departmental inquiry for not closing the inquiry as requested by the charged employee that he has been acquitted by the Appellate Court for the same charges as in the present departmental enquiry on the ground that Criminal Revision petition has been filed by the management in the Hon'ble High Court against such acquittal order of the Appellate Court. But, no mention on this point has been made either by the Disciplinary Authority or the Appellate Authority in their respective orders .
- (i) On the basis of the observations as above and emphasizing the order of the Hon'ble Supreme Court in G.M.Tank (Supra) as referred in its order dt.16.09.2019 in Civil Appeal no. 7279 of 2019 and cited by the Management in support of its contention , as filed before this Tribunal in the Camp Court, Patna on 21.01.2021, it is concluded that the punishment order passed by the Disciplinary authority stopping three increments in the Time Scale against the workman (charged employee) is not justified and so liable to be set aside.

22. Accordingly, based on the above discussions and findings and observations, following reliefs are awarded to the workman Shri R.S. Saini.

- (i) The Charge sheet for departmental inquiry dt.02.02.1981 is quashed ;
- (ii) The Inquiry Report dt.12.11.1986 of the Inquiry Officer with reference to the charge sheet dt.02.02.1981 is also quashed;
- (iii) The punishment order of the Disciplinary Authority of the Allahabad Bank dt.2.4.1987 is set aside based on quashing of the charge sheet itself, quashing of the Inquiry Report and also based on findings of the acquittal by the Appellate Court in the same charges and similar evidence as in accordance with the citation made from the order of judgment of Hon'ble Supreme Court as above.
- (iv) Consequently , the effect of this award combined with all above three Orders will be such that the workman under this dispute and award Shri R. S. Saini will be treated as an employee as his status on 04-12-1980 , that is , prior to his suspension on 05-12-1980, with all consequential benefits including regular pay , increments, promotions , etc as applicable to the employees of similar grade and post of the Allahabad Bank, till his retirement from the services of Allahabad Bank and fixation of his Pension accordingly on the date of retirement in such a way that he was neither suspended on 05-12-1980 nor any punishment order awarded on him after the referred departmental proceedings. Compliance of this award with all entitled benefits be made within three months of notification of this award as the concerned worker has already attained the age above eighty years of age as per record .

Dr. S. K. THAKUR, Presiding Officer

नई दिल्ली 5 जुलाई, 2021

**का.आ. 472.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधतंत्र, संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय सं. 2, धनबाद के पंचाट (संदर्भ सं. 22/2003) को प्रकाशित करती है जो केन्द्रीय सरकार को 05.07.2021 को प्राप्त हुआ था।

[सं. एल- 12011/194/2002-आई आर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 5th July, 2021

**S.O. 472.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 22/2003) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court No 2*, Dhanbad as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank and their workmen, received by the Central Government on 05.07.2021.

[No. L-12011/194/2002 IR(B-II)]

SEEMA BANSAL, Section Officer

### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD

**PRESENT :** Dr. S. K.Thakur, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act., 1947.

#### REFERENCE NO 22 OF 2003

#### **PARTIES:**

The Executive Member,  
Punjab National Bank Employees Union (Bihar),  
C/o Punjab National Bank, Exhibition Road,  
PATNA (BIHAR)-800001.

**Vs.**

The Zonal. Manager,  
Punjab National Bank,  
Zonal Office, Chanaky Place  
R-Block, Patna  
PATNA (BIHAR) 800001.

**Order No. L-12011/194/2002 –IR(B-II) dt.31.01.2003/10.02.2003**

#### **APPEARANCES :**

On behalf of the workman/Union : Self

On behalf of the Management : S/Shri Jai Krishna Kumar & Alok Kumar Sr. Manager and Manager (Law) respectively as Representatives.

**State : Bihar**

**Industry : Banking**

**Dated, Dhanbad, the 17th February, 2021**

#### **AWARD**

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act.,1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-12011/194/2002 –IR (B-II) dt.31.01.2003/10.02.2003.

#### **SCHEDULE**

“Whether the demand made by the Punjab National Bank Employees Union for enhancement of wages from 1/2 of the scale wages to ¾ of the scale wages to Shri K. C. Mishra, Part -Time Safai Karamchhari on the basis of the area swept is justified ? If so what relief is the disputant entitled to? ”

On receipt of the Order No. L-12011/194/2002 –IR(B-II) dt.31.01.2003/10.02.2003f the reference from the Government of India, Ministry of Labour & Employment, New Delhi for adjudication of the dispute, it was registered as Reference case No. 22 of 2003 on 24.03.2003 and accordingly an order to that effect was passed to issue notices through the Registered Post to the parties concerned, directing them to appear before the Tribunal on the date fixed and to file their written statements along with the relevant documents. In pursuance of the said order, notices by the Registered Post were sent to the parties concerned.

2. The instant Industrial Dispute case was fixed on 18.01.2021 for hearing or passing appropriate order, in default, in accordance with law. The case matter was set for hearing over the said petition to be filed by the O.P./Management, Circle Head, Punjab National Bank as the management made it clear that the matter has been amicably settled but the petition, in question, was not came up before the Court on early hearings. This time also none appeared from the Sponsoring Union/workman (petitioner). Pertinent to note during the course of hearing on 31.10.2019, O.P./Management was earlier suitably directed by the Tribunal to file said petition with duly countersigned thereupon by the Union Bearer to corroborate the fact as orally submission made by the Management Representative. Mr. Jai Krishna Kumar and Mr. Alok Kumar, Sr. Manager (Law) and Manager (Law) respectively were reported to mark as present.

3. It has been observed that the proceeding abruptly halted over evidence of workman since 02.08.2005 and started hovering over it though a number of adjournments granted as the evidence was adduced in part remained inconclusive. Since then adjournments were granted suo mottu on 11.05.2006, 30.07.2014, 21.10.2014, 17.12.2014, 19.02.2015, 15.04.2015 and 21.08.2015, 12.10.2015, 23.10.2019 28.06.2015, 31.10.2019 and lastly on 18.01.2021. As part of the order dt.31.10.2019 requiring their appearances on 18.01.2021 at Camp Court, Patna, notices were sent to the both litigant parties on 31.12.2020 for finality of the case of Industrial dispute.

4. Notices were issued as usual to both the parties under Reference at the addresses referred in the Order of the Reference. Fresh Notices were resumed once again 04.01.2019, 03.06.2019, 01.10.2019 and finally 31.12.2020 the last one annexing therewith detailed instructive guidelines to both of the parties shedding light over the consequence over fate of the Industrial Dispute in eventuality of non-appearance and non-accomplishment of burden lying pending on their part. Like other Industrial Dispute cases having origin to Bihar State proceeding of this case mostly executed at Camp Court, Patna to provide maximum accessibility to the Sponsoring Union/workman concerned and even the finality of order on 18.01.2021. But non-appearance of the Sponsoring Union allows that they are not interested in getting the dispute disposed refereed by the Government of India to this Tribunal.

5. The case matter stands for enhancement of wages from  $\frac{1}{2}$  (half) to  $\frac{3}{4}$  (three quarter) taking in account of sweeping area about more than 300 Sq.ft. of the workman K.C.Mishra as alleged by the Sponsoring Union seeking relief as sought for, through adjudication.

6. It has been apparently clear beyond doubt that as part of compliance of oral submission, the O.P./Management filed the verified petition to this effect that show that the General Secretary of the Sponsoring Union voluntarily agreed to settle the issue of Industrial Dispute between workman K.C.Mishra and the Employer/O.P. (Punjab National Bank) who readily accepted it and communicated to the Tribunal by filing petition. The Sponsoring Union who raised the claim do not intent to proceed with the instant case further citing the alleged settlement arrived at after having being reconciled the issue between the O.P./Management and Union Representative that will absolve the subject matter in toto as non-existent and binding upon both the parties. The O.P./Punjab National Bank also endorsed and communicated the dispute referring the Undertaking of reconciliation arrived at between the Sponsoring Union and O.P. /Management, so the non-existence of dispute is affirmed.

7. Considering the materials on record and that adjudication turned into an Undertaking arising out after the reconciliation between the parties, the Tribunal becomes functus officio and has no scope to move ahead for adjudication. When the dispute is pending from 2003, the Tribunal is persuaded to safely presume that the Sponsoring Union is no more interested to contest further in view of filing a Undertaking to this effect. With filing of this representation the issue in case matter of dispute got absolved. The dispute is thus disposed of accordingly as the Industrial Dispute by and between the parties being treated as non-existent. The Sponsoring Union /workman petitioner no longer need the grievance to be redressed from the Management through the Tribunal in the light of “Undertaking of Settlement” arrived at between the Sponsoring Union and the O.P./Punjab National Bank and, Award with no relief, whatsoever is granted by this Tribunal.

Dr. S. K. THAKUR, Presiding Officer

नई दिल्ली, 5 जुलाई, 2021

**का.आ. 473.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूनियन बैंक आफ इंडिया के प्रबंधतंत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय सं. 2, धनबाद के पंचाट (संदर्भ सं. 272/1999) को प्रकाशित करती है जो केन्द्रीय सरकार को 05.07.2021 को प्राप्त हुआ था।

[सं. एल-12011/03/1999-आई आर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 5th July, 2021

**S.O. 473.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 272/1999) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court No 2, Dhanbad* as shown in the Annexure, in the industrial dispute between the management of Union Bank of India and their workmen, received by the Central Government on 05.07.2021.

[No. L-12011/03/1999-IR(B-II)]

SEEMA BANSAL, Section Officer

### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD

**PRESENT** : Dr. S. K. Thakur, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act., 1947

#### **REFERENCE NO 272 OF 1999**

#### **PARTIES:**

The General Secretary,  
Union Bank Empts. Asso. Bihar State,  
C/o Union Bank of India, Frazer Road,  
PATNA (BIHAR)

Vs.

The Asstt. Gen. Manager,  
UBI Regional Office,  
Union Bank of India  
Nasheman Mazhrul Haque Path,  
PATNA (BIHAR) 800001.

**Order No. L-12011/03/99/IR(B-II) dt.14.06.1999**

#### **APPEARANCES :**

On behalf of the workman/Union : Mr. M. L. Singh, Union Representative

On behalf of the Management : Mr. D. K. Verma, Ld. Advocate

**State : Bihar**

**Industry : Banking**

**Dated, Dhanbad, the 14<sup>th</sup> February, 2021**

#### **AWARD**

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act.,1947 has referred the following dispute to this Tribunal for adjudication vide their **Order No. L-12011/03/99/IR (B-II) dt.14.06.1999**

#### **SCHEDULE**

**“Whether the action of the management of Union Bank of India, Patna to declare vacancies in Clerical Cadre for State of Bihar for promotion from subordinate cadre in compliance of promotion policy settlement dated 1<sup>st</sup> March, 1996 is justified? If not, what relief the workmen are entitled?”**



On receipt of the **Order No. L-12011/03/99/IR(B-II) dt.14.06.1999** of the reference from the Government of India, Ministry of Labour & Employment, New Delhi for adjudication of the dispute, it was registered as Reference case No. 272 of 1999 on 09.07.1999 and accordingly an order to that effect was passed to issue notices through the Registered Post to the parties concerned, directing them to appear before the Tribunal on the date fixed and to file their written statements along with the relevant documents. In pursuance of the said order, notices by the Registered Post were sent to the parties concerned.

2. The Industrial Dispute case is set to proceed expeditiously with reference of the case and to bring them to a conclusion in accordance with law. The instant Industrial Dispute case was fixed on 04.02.2021 for taking up the hearing of arguments on both side. On perusal of records available in the case matter it is observed that the matter was heard to reach the finality on 16.01.2020 and reserved for order for award. But the same was not made and it was listed for hearing again on 04.02.2021. During the hearing on 16.01.2020 Mr. M.L.Singh representing on behalf of the Sponsoring Union was present while Management was represented by Mr. Charles Kachchap Manager (HR) backed by Ld. Advocate Mr. D. K.Verma. The Status of the case is almost approaching for maturity but Mr.M.L.Singh, Representative of the Sponsoring Union by moving a petition dt. 16.01.2020 before the Court pleaded to withdraw from contesting the case further, citing it has no relevancy in view of the present scenario in the factual position of workmen concerned as the workmen involved have been either promoted or retired from service. When the matters are referred the Tribunal/Court they have to be decided objectively and the Tribunals have to exercise their discretion in a judicial manner without arbitrariness by following the general principles of law and rules of natural justice.

3. Soon after referred by the Central Government the said dispute for adjudication under clause (d) of Sub-Sec. 10 of the I.D. Act, 1947 (14 of 1947) to this Tribunal notices were sent as usual were sent to both of the parties under reference. The case was registered on 09.07.1999 with Reference No. 272/99 and both the parties filed respective claims moving further the adducing evidence in support of the claim but the case matter had been hovering over argument finally before it could be reserved for Award on merit but the same could not be finalized. Since 03.09.2012 and thereafter sufficient short adjournments were granted thereafter on different pretexts as both the parties had inclination of buying more time on various ground and the matter kept adjourning and remained inconclusive. Noteworthy during the Camp Court at Kolkata, the case matter was placed before Lok Adalat for hearing between the parties for arriving at amicable solution but to no avail. The case matter fell into the line of final hearing before closure of the case on merit.

4. The matter was also put up in Lok Adalat on 17.05.2004 in which Representative appearing for the workmen put forth the contention that the Management is not adhering and not following the Bipartite Settlement and unilaterally had declared the vacancy prejudicing the interest of the workmen for which they explicitly expressed unwillingness to dispose of the case. So in view of such submission of the Trade Union Leader, the Tribunal found no scope to move further towards settlement and the case was back for regular hearing. During last few dates of the hearing the employer and employee did not take any positive steps despite issuance of fresh notices dt. 03.06.2019, 19.12.2019 and on 15.01.2021 were issued. Though voluminous documents and reliance over judgments of Hon'ble High Courts were also brought on record in support of claims between the parties.

5. The case stands for the Industrial Dispute between the Management of Union Bank of India, Patna and their workmen over violation of promotion policy settlement dated 01.03.1996 from Subordinate Cadre to Clerical Cadre.

6. There is a prima facie no controversy to exist any dispute as Mr. M.L. Singh, Vice President, UBEA, Jharkhand State Ranchi the Sponsoring Union rolled back to contest the dispute any more citing the grounds that all the employees concerned under Reference have either already been promoted or superannuated. So issue of the dispute has no relevancy as of now in the present scenario against which the management Representative /Ld. Advocate did not have any objection to. With the moving and filing the petition to this effect all the exercise put in over the years by both parties under Reference turned of no use in a single stroke. Similarly the Tribunal finds no scope to proceed further in view of the case being withdrawn by the Sponsoring Union when adjudication was under way.

7. The dispute is thus disposed of accordingly along with the order of Reference with the issues framed therein as the workmen under Reference no longer need relief as sought for by the sponsoring Union. Thus award with no relief to the Sponsoring Union is passed on being the dispute withdrawn as no contest further.

Dr. S. K. THAKUR, Presiding Officer

नई दिल्ली, 5 जुलाई, 2021

**का.आ. 474.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधतंत्र, संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय सं. 2, धनबाद के पंचाट (संदर्भ सं. 62/2015) के प्रकाशित करती है जो केन्द्रीय सरकार को 05.07.2021 को प्राप्त हुआ था।

[सं. एल-12011/48/2015-आईआर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 5th July 2021

**S.O. 474.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 62/2015) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court No 2*, Dhanbad as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank and their workmen, received by the Central Government on 05.07.2021.

[No. L-12011/48/2015-IR(B-II)]

SEEMA BANSAL, Section Officer

### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD

**PRESENT :** Dr. S. K.Thakur, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act., 1947

#### REFERENCE NO 62 OF 2015

#### **PARTIES:**

The Dy. General Secretary,  
Punjab National Bank Employees Union,  
Punjab National Bank, Boring Road,  
PATNA (BIHAR)

**Vs.**

The Circle Head,  
Punjab National Bank,  
Circle Office  
Aghoria Bazar Chowk,  
MUZAFFARPUR,

**Order No. L-12011/48/2015-IR(B-II) dt.24/28.08.2015**

#### **APPEARANCES :**

On behalf of the workman/Union : None

On behalf of the Management : Mr. P. S. Srivastava Ld. Representative

**State : Bihar**

**Industry : Banking**

**Dated, Dhanbad, the 15th February, 2021**

#### **AWARD**

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act.,1947 has referred the following dispute to this Tribunal for adjudication vide their **Order No. L-12011/48/2015-IR(B-II) dt.14/28.08.2015.**

#### **SCHEDULE**

**“Whether the action of the management of Punjab National Bank to propose the punishment of be brought down to lower stage in the scale of pay be two stages was proportionate? If not, what relief the workman was entitled for?”**

On receipt of the **Order No. L-12011/48/2015-IR(B-II) dt.24/28.08.2015** of the reference from the Government of India, Ministry of Labour & Employment, New Delhi for adjudication of the dispute, it was registered as Reference case No. 62 of 2015 on 07.09.2015 and accordingly an order to that effect was passed to issue notices through the Registered Post to the parties concerned, directing them to appear before the Tribunal on the date fixed and to file their written statements along with the relevant documents. In pursuance of the said order, notices by the Registered Post were sent to the parties concerned.

2. The Industrial Dispute case matter was listed on 18.01.2021 for hearing over filing of Written Statement of Claim and other relevant documents together with annexing list of witness, if any, to facilitate to carry forward the case and in default to pass order in accordance with law. But neither the Representative from the Union nor the workman concerned was found present on call even on the last day of hearing. The Representatives from the Management /OP Bank Mr. P.R. Srivastava, Sr. Manager and Mr. Jai Krishna Kumar Sr. Manager (Law) respectively are present to represent the case. It is pertinent to note that the Written Statement of Claim from the person who raised the dispute should and must have been filed within 15 days of the receipt of the order as stated in the Order of Reference from Government of India, which reads as follows:

**“The Parties raising the dispute shall file a statement of claim complete with relevant documents, list of reliance and witnesses with the Tribunal within fifteen days of the receipt of this order of reference and also forward a copy of such statement to each one of the opposite parties involved in this dispute under rule 10(b) of the Industrial Disputes (Central), Rules, 1957. “**

3. Service of Notices dt. 09.11.2015, 03.06.2019 and last on 31.12.2020 the last one annexing with Detailed instruction was also served showing what could be the consequence in case of failure in appearance, nevertheless the Sponsoring Union/workman (Unknown) did not care for appearance, far to speak of filing the Written Statement of Claim. In the absence of the Written Statement of Claim the proceeding/issue of the case could not be decided nor did the Court proceeding was advanced. 18.01.2021 is the third consecutive day that neither of the Sponsoring Party nor the workman has appeared and clearly the conduct of the Union indicates that the Industrial Dispute between them has ceased and they have abandoned this case.

Adjournments were availed by the Sponsoring Union on 07.09.2015, 03.12.2015, 11.02.2016, 31.03.2016, 26.05.2016 07.09.2016 28.06.2019, 31.10.2019 and finally on 18.01.2021. In view of the Sponsoring Union /Petitioner locations in mind, hearing was conducted at Camp Court, Patna to give it effective contest and to provide full natural justice to the workman/Sponsoring Union.

4. The case under reference is in relation to alleged punishment imposed upon the workman by lowering down the scale of pay of the workman to two stage by O.P./Bank is proportionate or not, seeking relief and the extent to which the workman is entitled for if the action of the Management is beyond proportionate. Significantly the name of the workman went missing in the Reference.

5. On the face of the facts recorded in earlier paras it is apparent beyond doubt that the Sponsoring Union has not been able either to file Written Statement of Claim nor has made any attempt for appearance showing any reasonable approach for inordinate delay during the entire proceedings of the Case spanning over more than five years or so. When the Written Statement of Claim is not filed by the sponsoring Union even after elapse of more than five years or so there is no justification of the existence of any dispute between the parties. Similarly O.P./Management Representative appearance appears to be mere formality. Contrary to the fact, the Management representation has all along been registered.

6. Based on the above findings the Tribunal arrives at a conclusion that there is no scope of existence of the Industrial Dispute. Considering the circumstances of the fact, and materials avail on record, the Industrial Dispute case appears to be framed in hurriedly manner when the name of the workman was also not properly incorporated in the Schedule of Reference. Under such position case is closed concluding that no relief needs to be granted to the concerned workman (unknown) by the Management (Opposite Party) as if the schedule of reference has been framed ambiguously in the absence of any dispute and on account of non-submission of written statement of claim by the sponsoring Union between the employer and employee the case has turned meritless. For the reasons above, relief sought for by the Petitioner (Unknown) cannot be acceded to. And no relief in Award

Dr. S. K. THAKUR, Presiding Officer

नई दिल्ली, 5 जुलाई, 2021

**का.आ. 475.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन, संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय सं. 2, धनबाद के पंचाट (संदर्भ सं. 38/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 05.07.2021 को प्राप्त हुआ था।

[सं. एल- 12011/28/2015-आईआर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 5th July, 2021

**S.O. 475.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 38/2015) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court No 2*, Dhanbad as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank and their workmen, received by the Central Government on 05.07.2021.

[No. L-12011/28/2015-IR(B-II)]

SEEMA BANSAL, Section Officer

### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD

**PRESENT** : Dr. S. K.Thakur, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act., 1947

#### **REFERENCE NO 38 OF 2015**

#### **PARTIES:**

The General Secretary,  
Punjab National Bank Staff Union,  
2<sup>nd</sup> Floor, Saboo Chamber, Near Hotel Republic,  
Exhibition Road, Patna (BIHAR)

**Vs.**

The Circle Head,  
Punjab National Bank, Circle Office  
Gaya, A.P.Colony, Distt.Gaya  
Bihar

**Order No. L-12011/28/2015-IR(B-II) dt.22.05.2015**

#### **APPEARANCES :**

On behalf of the workman/Union : None

On behalf of the Management : Mr. Jai Krishna Kumar, Sr. Manager

**State : Bihar**

**Industry : Banking**

**Dated, Dhanbad, the 18<sup>th</sup> February, 2021**

#### **AWARD**

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act.,1947 has referred the following dispute to this Tribunal for adjudication vide their **Order No. L-12011/28/2015-IR (B-II) dt.22.05.2015**

#### **SCHEDULE**

**“Whether the workman Sri Santosh Kumar Pandey who has been working as part time sweeper on consolidated wages for more than 7 years in the Kutumba (Aurangabad) Branch of Punjab National Bank is entitled to be regularized as part time sweeper? If not so, to what relief he is entitled for?”**

On receipt of the **Order No. L-12011/28/2015-IR (B-II) dt.22.05.2015** of the reference from the Government of India, Ministry of Labour & Employment, New Delhi for adjudication of the dispute, it was registered as Reference case No. 38 of 2015 on 05.06.2015 and accordingly an order to that effect was passed to issue notices through the Registered Post to the parties concerned, directing them to appear before the Tribunal on the date fixed and to file their written statements along with the relevant documents. In pursuance of the said order, notices by the Registered Post were sent to the parties concerned.

2. None appeared on 18.01.2021 from the Sponsoring Union or the workman petitioner nor did file the long awaited Written Statement of Claim and other relevant documents together with annexing witness(s) if any, thereto, to facilitate to carry forward the case as final opportunity and in default for proceeding in accordance with law. But neither Representative of the Sponsoring Union nor the /petitioner took any positive steps as to filing the Written Statement of Claim. The case matter is fixed steps with regard to filing Written Statement of Claim by the Sponsoring Union. Status represents that the Industrial dispute has been hanging in balance for long way back since 2015. But neither Representative of the Sponsoring Union nor the petitioner could be able to file any positive steps without sufficient cause being shown.

3. The Central Government refers the said dispute for adjudication to the Tribunal in respect of the matters specified in the Schedule upon Sponsoring Union raising the Industrial Dispute. So, the Instant case registered on 05.06.2015 and notices in prescribed form issued the Sponsoring Union as well as the Opposite Party/Management at the address given in the Schedule of the reference directing it to appear and file the W.S. on the next date fixed but proceeding did not come into light because the Sponsoring Union remained shying away of coming forward with legitimate claim in the form of Written Statement of Claim.

4. Upon registration on 05.06.2015 the Industrial Dispute Case came into existence as Reference No. 38/2015 with issuance of notice for appearance on 27.08.2015, and subsequently on 27.06.2019, 16.01.2020 and finally on 18.01.2021 to 21.01.2021 for filing Written Statement of Claim. The Sponsoring Union either by the workmen or its Representative never made appearance during the hearings of the proceeding. Admittedly they could not be able to file the Written Statement of Claim and merely stopped appearing in proceeding. As a matter of fact it does not appear the issue relating to the Dispute of regularization of service was ever given due consideration by the Sponsoring Union or the workman himself.

5. As regards Notices were issued on dt. 20.07.2015, 03.06.2019, 19.12.2019 and finally on 31.12.2020 and suo motu adjournments granted on different pretexts on dt. 05.06.2015, 12.10.2015, 11.03.2016, 10.05.2016, 30.06.2016, 22.08.2016, 28.11.2016, 08.08.2017, 21.09.2017, 27.06.2019, and 16.01.2020. There was no representation at all on the part of either of the parties baring on 16.01.2020 for filing authority by Mr.O.P.Verma, Ld. Advocate on behalf of the Management. It does not hold any ground in the absence of written statement of claim from the party raising the dispute. So, the proceeding of the case came to halt and persistent pressure by way of adjournment and notices appears of no use. The Party who raised the dispute should have been well conversant of what could be impact would go in the eventuality of regular absences and no response. The Industrial dispute being originally from Bihar Region, most of the proceedings of the case matter was conducted at Camp Court, Patna for conveniences of both the contending parties and to give effective contest to workman to defend the case but no fruitful result was yielded. The Party (Sponsoring Union) who raised the dispute will be deemed to have been well conversant of the rules as per terms of reference by the Government of India before this Tribunal, which reads as follows:

**“The Parties raising the dispute shall file a statement of claim complete with relevant documents, list of reliance and witnesses with the Tribunal within fifteen days of the receipt of this order of reference and also forward a copy of such statement to each one of the opposite parties involved in this dispute under rule 10(b) of the Industrial Disputes (Central), Rules, 1957.”**

6. The Industrial Dispute under reference is concerned with an act of non-regularization of the Part Time Sweeper Sri Santosh Kumar Pandey who has been stated to be working on consolidated wages for more than seven years in the Kutumba (Aurangabad) Branch of Punjab Nation Bank, seeking reliefs there under by challenging the purported action of the Management.

7. What the fact has transpired from record that during the course of hearing the proceedings neither the sponsoring Union nor the workman/ petitioner has ever made attempt for appearance, far to speak of filing of Written Statement of Claim. However, the long awaited Written Statement was never filed and the issue was never determined on any date as claim with petition/document was never filed by the Union/workmen. Nothing is found on record to be considered before this Tribunal. Therefore, it is clear that the Sponsoring Union /Petitioner (workman) has no interest in further proceeding of this case.

8. Having examined the whole facts and materials on record, Tribunal is persuaded to safely presume that the Sponsoring Union /workman (petitioner) is no more interested to proceed with this adjudication. With such the inclination of the Sponsoring Union /workman, and in the absence of Written Statement of Claim there is no more scope left to proceed further. When the workman has lost interest to contest the case on merit, the Industrial Dispute appears to have ceased on its merits or the footing on which issue has been raised. Therefore, the Tribunal finds no impediment in passing an Award as aforesaid facts constitute no claim in existence. Thus, the case stands disposed of on such terms as devoid of merits in the absence of written statement of claim and, no relief whatsoever. Thus the dispute is disposed of with no relief being granted to the party raising the dispute in the absence of the written claim.

Dr. S. K. THAKUR, Presiding Officer

नई दिल्ली, 6 जुलाई, 2021

**का.आ. 476.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार प्रधान निदेशक, रक्षा भूमि एवं छावनी मुख्यालय दक्षिणी कमान, पुणे- 1; कार्यपालक अधिकारी, छावनी, बोर्ड, देहुरोड के प्रबंधन के संबद्ध नियोजकों और अंचल सचिव, अखिल भारतीय छावनी, बोर्ड कर्मचारी संघ, छावनी बोर्ड, देहुरोड, पुणे के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, पुणे पंचाट (संदर्भ संख्या 10/2016) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 22.06.2021 को प्राप्त हुआ था।

[सं. एल-13011/02/2015-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 6th July, 2021

**S.O. 476.**—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 10/2016) of the Industrial Tribunal, Pune as shown in the Annexure, in the Industrial dispute between the employers in relation to The Principal Director, Defence Land & Cantt. HQ Southern Command, Pune-1; The Executive Officer, Cantt. Board, Dehuroad and The Zonal Secretary, All India Cantt. Board Employees Federation, Cantt. Board, Dehuroad, Pune which was received along with soft copy of the award by the Central Government on 22.06.2021.

[No. L-13011/02/2015-IR (DU)]

D. K. HIMANSHU, Under Secy.

#### ANNEXURE

#### BEFORE INDUSTRIAL TRIBUNAL MAHARASHTRA AT PUNE

Reference (IT) No. 10/2016

CNR. No. MHIC12-000766-2015

1. The Principal Director,  
Defence Land & Cantt. HQ,  
Southern Command, Pune-411 001.
2. The Executive Officer,  
Cantt. Board, Dehuroad-412 101.

... First Party

AND

The Zonal Secretary,  
All India Cantt. Board Employees Federation,  
Cantt. Board, Dehuroad, Pune-412 101.

... Second Party

**Coram :** M.R. Kumbhar, Presiding Officer.

#### Appearances :

Shri Rajan M. Sawant & Shri C. Kurade  
Authorised Representatives for first party.

Shri G. V. Joglekar & Shri M.A. Vitwekar, Union  
representative for the second party.

#### AWARD

(Dated :15.03.2021)

This is a reference referred by the Government of India, by an order dtd.17/02/2016 for adjudication of industrial dispute between Defence Land & Cantt. HQ, Southern Command, Pune & The Executive Officer, Cantt. Board, Dehuroad Pune (in short First Party) And Shri V.D. Patil represented by All India Cantt. Board Employees Federation (in short Second Party) U/s.2A of sub-sec-(1) of clause-(d) of Sec-10 of the Industrial Disputes Act, 1947 along with schedule annexed therein which reads as under :-

*"Whether the action of the Management of Cantt. Board,  
Dehuroad, Pune in imposing the punishment to Shri V.D.*

*Patil, i.e. reduction of two annual increments and not regularising the suspension period though the charges are not proved is legal and justified ? If not, to what relief the workman Shri V.D. Patil is entitled to ?".*

2. After the receipt of the reference order, notices were issued to both the parties and both parties appeared with their respective representatives.
3. The second party filed his statement of claim at Exh.U-1 and contended that, Shri V.D. Patil (second party employee) was appointed as Tax Collector in the Cantonment Board Dehuroad on 03/11/1980 & further appointed as departmental candidate to the post of Sanitary Inspector on 05/12/1995. He was under suspension w.e.f. 30/01/2008 for forgery of documents and production of bogus limit certificate. Further contended that the preliminary enquiry was conducted under the Chairmanship of Office Supdt. and as per report of preliminary enquiry he was kept under suspension. The criminal case was filed against him in Dehuraod Police Station and also the Dist. Suptd of Police, Rural Pune, but no action was taken by the Police authority. Further contended that, charge-sheet was issued to him after lapse of two years and enquiry committee was established by the Board and separate enquiry report was submitted by each of the member of the enquiry committee and in the report it was stated that enquiry committee cannot prove the charges framed against the second party employee. Thereafter the matter was placed before the Board, but unfortunately, Board imposed major penalty of reduction of two annual increments and non regularisation of suspension period which was against to constitution 311 and FRSR. Therefore, the second party employee submitted an appeal before the Appellate Authority on 08/03/2010.
4. Further contended that, after lapse of two years it was seen that the Appellate Authority has not considered the appeal and neither any reply was received, and the second party employee was due for retirement on 31/01/2016 on superannuation. Therefore, All India Cantonment Board employees Federation has submitted this matter before the Regional Labour Commissioner for conciliation and accordingly meetings were conducted and the administration was agreed to settle the issue as the appointing authority of the employee is Board. Thereafter, matter was place before the Board and the Board by Resolution dtd.25/03/2015 agreed to settle the issue after the decision of the Regional Labour Commissioner, Pune. Further contended that, the Regional Labour Commissioner, Pune advised the administration to follow the FR-54 to settle the case, in between GOC-in-C requested to conduct a fresh enquiry against the second party employee by letter dtd.22/07/2014, but no such enquiry was conducted after the lapse of 20 months & the second party employee was retired on superannuation on 31/01/2016.
5. Lastly contended that, the case is of 2008, no charge-sheet was given after the lapse of 22 months. The enquiry committee cannot prove the charges framed against the second party employee. Especially the Board has not recorded any reasons to impose the major penalty, and the criminal case was registered to Dehuroad Police Station and Suptd. of Police Pune, but no any enquiry/action taken by them. Therefore, it is prayed that the second party is already retired on superannuation on 31/01/2016 and suitable order be passed to regularise the suspension priod and two annual increments, and prayed to allow the reference with all prayers made therein.
6. The first party filed the detailed written statement at Exh.C-4 stating that, the second party employee was initially appointed as a Jr. Clerk, and thereafter he was appointed as Sanitary Inspector by Dehuroad Cantonment Board from 05/12/1996. Further stated that, subsequently, the second party employee gave certificate dtd.03/01/2008 to one Shri Nanasaheb Baburao Sane, stating that Gat No.1326, Chikhali, tal-Haveli, Dist-Pune is outside the limits of the Dehu Road Cantonment Board. Therefore, the disciplinary proceedings was initiated against him by appointing the enquiry committee under Rule-16 of the CCS & CCA Rules, 1963 and charge-sheet was issued on 20/11/2009. During the enquiry statements of the all concerned officers were recorded by the enquiry committee and submitted the enquiry report. The said report was placed before the Dehu Road Cantonment Board on 21/10/2010 and it was decided to impose minor penalty on second party employee by withholding 2 increments of pay and also not to regularise the priod of suspension.
7. It is further stated that, being aggrieved by the said order, the second party employee filed Appeal before the General Officer Commanding in Chief under Rule-15 of the Cantonment Fund Servant Rules, 1937 (CFSR) vide Appeal dtd.30/11/2010 challenging the order dtd.21/10/2010 passed by the Board and prayed to set aside the said order. Thereafter the General Officer Commanding in Chief by its order dtd.21/07/2014 being Appellate Authority under power vested in Rule-14(1) of the CFSR, 1937 directed the order of punishment imposing penalty set aside and further directed to relieve the second party employee from the consequences arising out of the departmental action, and further directed to take a holistic view of the entire case & to initiate denovo disciplinary proceedings against the second party employee, and if so initiated, shall strictly comply with the provisions of law as applicable. The said order was also placed before the Dehu Road Canonment Board and after considering the same by order dtd.25/03/2015 it was resolved that final decision will be taken only after decision from the Regional Labour Commissioner, Pune. The Regional Labour Commissioner, Pune vide its letter dtd.23/06/2015 advised the management that they should follow FR-54(1) & (2) as mentioned in FR & SR Rules since charges levelled against second party employee has not been proved.

8. Lastly stated that, the decision of the Regional Labour Commissioner was placed before the Dehu Road Cantonment Board, and the Dehu Road Cantt. Board by resolution dtd.27/08/2015 resolved that the decision of the Regional Labour Commissioner Pune shall be challenged by filing civil suit in the court of law. Before challenging the said order, the present dispute was raised before the Conciliation officer and thereafter it was forwarded to this Tribunal for adjudication, and prayed that reference be dismissed and matter be referred to Cantt. Board Dehu Road for initiating denovo enquiry as per order dtd.21/07/2014.

9. From the rival pleadings of the parties, the following issues are framed at Exh.O-6, and my findings to them are as follows:

	POINTS	FINDINGS
1	Whether the action of the first party management in imposing the punishment & not regularising the suspension period of second party employee in services is illegal ?	Yes;
2	Whether the second party employee is entitled for the relief as prayed ?	Yes;
3	What award ?	As per final award.

### REASONS

10. Heard the Ld. Representatives for the parties at length. Both of them submitted their case as per the pleadings with the help of documents filed along with statement of claim & written statement. In addition to this, second party filed the written synopsis of argument at Exh.U-7.

11. The second party union to substantiate their claim filed the affidavit of examination in chief of Shri Gopal Vasudev Joglekar at Exh.U-12 and he reiterated the entire statement of claim as it is. On behalf of first party decline to cross-examine the witness of second party. Thereafter, second party filed evidence close pursis at Exh.U-13. On the contrary, the first party chose not to lead any oral evidence before the Tribunal and filed no evidence pursis at Exh.C-9.

12. I have deeply considered the written synopsis of argument filed by the second party as well as oral submissions advanced on behalf of first party. I have minutely prused the entire pleadings along with oral evidence led on behalf of second party. From this it appears that, the case is based entirely on the documentary evidence.

13. Admittedly, after the issuance of the charge-sheet to the second party employee, the enquiry committee was appointed and the enquiry committee has filed their report stating that the charges which were levelled against second party employee cannot be proved. It is further admitted fact that, thereafter no any enquiry was conducted against the second party employee for the alleged misconduct, neither filed any Civil Suite, nor conducted the denovo enquiry against the second party employee.

14. It is needless to state here that, second party employee of Dehuroad Cantt. Board is retired from services on superannuation w.e.f. 31.01/2016. The present reference is forwarded to this Tribunal by order dtd.17/02/2016. It is undisputed fact that, from the documents placed on record the second party employee was appointed as Jr. Clerk in Dehuroad Cantt. Board and subsequently, he was promoted as Sanitary Inspector, his service was governed as per Cantt. Fund Servant Rule, 1937 r/w. Central Civil Services Rules. Further it has come on record that, second party employee was placed under suspension by order dtd.30/01/2008, thereafter Disciplinary Authority under Rule-12 of CFSR 1937 has issued charge-sheet dtd.26/11/2009 alleging that second party employee has mis-used his powers, signature and official seal while performing duties as sanitary Inspecor. Thereafter, the enquiry committee submitted their report in which it was specifically observed that, during investigation enquiry committee has deeply investigated with the help of documents and they cannot prove the charges framed against the second party employee. Inspite of this, first party by resolution dtd.21/10/2010 imposed minor penalty by withholding of 2 annual increments of pay and not to regularise the suspension period. It has further come on record that, at the relevant time the second party employee was reinstated and was directed to do the work of Birth, Death & Marriage Registration until further orders by order dtd.01/09/2010.

15. It is pertinent to note that, second party employee has challenged the punishmnt order by filing Appeal on 30/12/2010 under Rule-14 of the CFSR 1937 before the General Officer Commander-in-Chief, Southern Command Pune, & the said Appellate Authority by order dtd.21/07/2014 directed to first party to initiate denovo enquiry. But first party failed to do so. It is worthwhile to mention here the order passed by the Appellate Authority dtd. 21/07/2014 at para-8 & 9 wherein it is observed that,



“8. And whereas, on examination of the appeal and documents placed on record, it appears that the action of the Board is not justifiable, as the enquiry committee has neither proved the charges framed against the charged officer, nor has it made any analysis of the enquiry report, to come to a definite conclusion to the contrary. Hence, it is considered, that, the penalty imposed is not commensurate with the findings of the enquiry report, especially when the Board has not recorded any reason to impose the penalty.

9. Now, therefore, the Appellate Authority, under the powers vested in him, vie Rule 12(1) of the Cantonment Fund Servants Rules, 1937, directs that the order of punishment mentioned at Para-5 above, be set aside. Shri V.D. patil will be relieved of the consequences arising out of the departmental action. The Competent Authority will take a holistic view of the entire case and may initiate denovo disciplinary proceedings against Shri V.D. Patil, and if so initiated, shall strictly comply with the provisions of law, as applicable”.

16. From the bare perusal it appears that before forwarding the present reference to this Tribunal, Appellate Authority already came to the conclusion that punishment imposed upon second party is already set aside, and liberty was granted to initiate denovo enquiry, but till date first party failed to take any action against the second party employee. Therefore, as directed by Appellate Authority the second party employee is entitled to get all the benefits as mentioned in FR-54(1)&(2) as mentioned in Fundamental Rules & Supplimentary Rules, which reads as –

“(1) When a Government servant who has been dismissed, removed or compulsorily retired is re-instated as a result of appeal review or would have been so reinstated [but for his retirement on supprnnuation, while under suspension or not], the authority competent to order reinstatement shall consider and make a specific order :-

(a) regarding the pay and allowances to be paid to the Government servant for the period of his absence from duty including the period of suspension preceeding his dismissal, removal or compulsory retirement, as the case may be, and,

(b) whether or not the said period shall be treated as a period spent on duty.

(2) Where the authority competent to order reinstatement is of the opinion that the Government servant who had been dismissed, removed or compulsorily retired has been fully exonerated, the Government servant shall, subject to the provisions of sub-rule (6), be paid full pay and allowances to which he would have been entitled, had he not been dismissed, removed or compulsorily retired or suspended prior to such dismissal, removal or compulsory retirement as the case may be:

Provided that where such authority is of opinion that the termination of the proceedings instituted against the Government servant had been delayed due to reasons directly attributable to the Government servant it may after giving him an opportunity to make representations [within 60 days from the date on which the communication in this regard is served on him] and after considering the representation, if any submitted by him, direct for reasons to be recorded in writing, that the Government servant shall, subject to the provisions of sub-rule (7), be paid for the period of such delay, only such amount [not being the whole] of such pay and allowances as it may determine”.

In view of the provisions as referred above and considering the order of the Appellate Authority dtd.21/07/2014 and in absence of any denial by the first party and non-leading of any oral evidence before the court, first party failed to substantiate their case before the Tribunal. Therefore, I hold that the second party employee has succeeded to prove his claim.

17. It is pertinent to note that, during the pendency of the reference the second party employee Shri V. D. Patil expired, and on behalf of second party union by filing application prayed that legal heirs be taken on record, therefore his widow namely Smt. Vijaya Vijay Patil contested the present reference.

18. Considering this action of penalty which was imposed against the second party employee is without proving any charges by legal means the punishment is unjustified and illegal, and it is liable to be quahed and set aside. Therefore, the legal heirs of the second party employee are entitled to get benefits of 2 annual increments which was withhold, and during the period of suspension as claimed, I find much substance in the written submissions made on behalf of the second party union for granting relief as claimed.

Therefore, all Issues should be answered accordingly, & I answer the same accordingly, and proceed to pass following award.

**: AWARD :**

1. The reference is answered in affirmative.
2. The punishment order issued by first party dtd.21/10/2010 is quashed & set aside, and first party is directed to release the withhold of 2 annual increments of pay and also to regularise his period of suspension and to pay accordingly.
3. No orders as to cost.
3. Copies of award be sent to Government of India for necessary action.

Dated :15.03.2021

Place: Pune.

M. R. KUMBHAR, Presiding Officer

नई दिल्ली, 13 जुलाई, 2021

**का.आ. 477.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय नाजिम और मुख्य कार्यकारी अधिकारी, दरगाह समिति, दरगाह ख्वाजा साहब, अजमेर (राजस्थान) के प्रबंधन के संबद्ध नियोजकों और सचिव, दरगाह समिति कर्मचारी विकास संगठन, अजमेर के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में अधिकरण श्रम न्यायालय एवं औद्योगिक न्यायाधिकरण अजमेर (राजस्थान) के पंचाट (संदर्भ संख्या 06/2020) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है।

[सं. एल-42012/5/2020-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 13th July, 2021

**S.O. 477.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. N.o 06/2020) of the Industrial Tribunal & Labour Court, Ajmer as shown in the Annexure, in the industrial dispute between the employers in relation to The Nazim & Chief Executive officer, Dargah Committee, Dargah Khwaja Saheb, Ajmer (Rajasthan) and The Secretary, Dargah Committee Employees Development Organization, Ajmer.

[No. L-42012/5/2020-IR (DU)]

D. K. HIMANSHU, Under Secy.

**अनुबंध**

**श्रम न्यायालय एवं औद्योगिक न्यायाधिकरण, अजमेर (राज.)**

**पीठासीन अधिकारी :** श्री रमाकांत शर्मा, आर.एच.जे.एस

**प्रकरण संख्या सीआईटीर 6/2020**

**सीआईएस नम्बर 31/2020**

भारत सरकार का रेफरेंस नं. एल-42012/5/2020-आईआर(डीयू) दिनांक 6.8.2020

The Secretary, Dargah committee karamchari Vikas Sangathan,  
Kayamkhani Mohalla, Behind Maheshwari school, Ratidang,  
Vaishali nagar, Ajmer-305001

...प्रार्थी

**बनाम**

The Nazim & Chief Executive officer Dargah Committee,  
Dargah Khwaja Saheb, Ajmer (Rajasthan)

...अप्रार्थी

**उपस्थिति**

प्रार्थी की ओर से : कोई उपस्थित नहीं।

—: अवार्ड :-

दिनांक: 18.01.2021

1. केन्द्र सरकार की ओर से इस न्यायालय के अधिनिर्णयार्थ निम्न रेफरेंस प्रेषित किया गया है:—

“Whether Dargah Committee, Dargah Khawaja Saheb, Ajmer is an industry within the meaning of the industrial Dispute Act 1947? If yes then whether demand of Dargah Committee Karamchhari Sangathan, Ajmer for regularization of services of Shri Shaukin s/o Sh. Kalu in the pay scale of driver is proper, legal and justified? If yes, then to what relief the concerned worker is entitled to and from which date? What relief the concerned worker is entitled to and from which date? What other directions if any are necessary in the matter?”

2. उक्त रेफरेंस इस न्यायालय को प्राप्त होने पर इसे दर्ज किया गया। प्रार्थी पक्ष को साधारण व रजिस्टर्ड डाक से नोटिस जारी किया गया।

3. प्रार्थी पक्ष को नोटिस जरिये रजिस्टर्ड डाक तामील होने के उपरांत भी कोई उपस्थित नहीं आया है। प्रार्थी पक्ष की ओर से गत पेशी पर कोई उपस्थित नहीं था और ना ही आज ही कोई हाजिर है। ऐसा प्रतीत होता है कि प्रार्थी पक्ष अपने प्रकरण के प्रति गंभीर नहीं है। ऐसे में प्रकरण में इस प्रकरण में “कोई विवाद शेष नहीं” अवार्ड पारित किया जाना उपयुक्त एवं न्यायसंगत है।

—:आदेश:—

अतः अतः उक्त विवेचनानुसार उक्त निर्देशित विवाद में कोई विवाद शेष नहीं अवार्ड (No Dispute Award) पारित किया जाता है।

रमाकांत शर्मा, न्यायाधीश

नई दिल्ली, 15 जुलाई, 2021

**का.आ. 478.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मुख्य प्रबंधक, भारत संचार निगम लिमिटेड, (राजस्थान) खत्री एयर कुलर सर्विसेज, सीकर (राजस्थान) और श्री अबजल हुसैन, कामगार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक न्यायाधिकरण एवं श्रम न्यायालय, भीलवाड़ा के पंचाट (संदर्भ संख्या 02/2018 एल. सी.आर.) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 15.07.2021 को प्राप्त हुआ था।

[सं. एल-42025/07/2021-आईआर (डीयू)]

डी. के. हिमांशु, अवसर सचिव

New Delhi, the 15th July, 2021

**S.O. 478.**—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 02/2018 L.C.R.) of The Industrial Tribunal & Labour Court, - Bhilwara, (Rajasthan) as shown in the Annexure, in the Industrial dispute between the employers in relation to The Chief Manager, Bharat Sanchar Nigam Limited, Chittorgarh, (Rajasthan); The Khatri Air Cooler Services, Sikar, (Rajasthan) and Shri Abjal Hussain, worker which was received along with soft copy of the award by the Central Government on 15.07.2021.

[No. L-42025/07/2021-IR (DU)]

D. K. HIMANSHU, Under Secy.

## अनुबंध

## श्रम न्यायालय, एवं औद्योगिक न्यायाधिकरण भीलवाड़ा

पीठासीन अधिकारी : श्री मुकेश भार्गव, आर.जे.एस. (जिला न्यायाधीश संवर्ग)

प्रकरण संख्या : 2 सन् 2018 एल.सी.आर.

श्री अबजल हुसैन पुत्र श्री बाबूदीन नीलगर,

नि.—नेवरिया, वाया—पहुंना, तह.—राशमी, जिला— चित्तौडगढ़

...प्रार्थी

: बनाम :

1. मै. मुख्य प्रबंधक, बी.एस.एन.एल, गांधीनगर, सेक्टर नं. 5, मेवाड गर्ल्स कॉलेज के पास, चित्तौडगढ़

2. मै. खत्री एयर कुलर सर्विसेज, जटिया बाजार,  
सीकर, जिला—सीकर (राज.)

...विपक्षी / नियोजकगण

## उपस्थित:

प्रार्थी की ओर से कोई हाजिर नहीं।

विपक्षी सं. एक के खिलाफ एकतरफा कार्यवाही।

विपक्षी सं. दो की ओर से कोई हाजिर नहीं है।

:: पंचाट ::

दिनांक 2.3.2021

प्रार्थी ने स्वयं स्वयं के सेवा पृथक्करण बाबत विवाद इस न्यायालय में औ.वि.अधि., 1947 की धारा 2 (ए) के तहत पेश किया—जिस पर प्रकरण दर्ज रजिस्टर किया जाकर विपक्षी को नोटिस जारी किये गये। प्रार्थी की ओर से गत अनेक पेशियों से कोई हाजिर नहीं हो रहा है तथा दिनांक 19.2.2020 को वकील प्रार्थी श्री एम.एच.कुरेशी ने हिदायत पैरवी नहीं होना जाहिर किया। आज भी प्रार्थी की ओर से कोई हाजिर नहीं है। अतः ऐसा प्रतीत होता है कि प्रार्थी की अब इस प्रकरण में कोई रुचि नहीं है तथा वह इस प्रकरण में कोई कार्यवाही नहीं चाहता है। अतः 'कोई विवाद नहीं रहा' आशय का पंचाट जारी किया जाता है।

मुकेश भार्गव, न्यायाधीश

नई दिल्ली, 15 जुलाई, 2021

**का.आ. 479.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मुख्य प्रबंधक, भारत संचार निगम लिमिटेड, चित्तौडगढ़ (राजस्थान); खत्री एयर कुलर सर्विसेज, सीकर (राजस्थान) और श्री राजू गर्ग, कामगार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक न्यायाधिकरण एवं श्रम न्यायालय, भीलवाड़ा के पंचाट (संदर्भ संख्या 03/2018 एल.सी.आर.) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 15.07.2021 को प्राप्त हुआ था।

[सं. एल-42025/07/2021-आईआर (डीयू)]

डी. के. हिमांशु अवर सचिव

New Delhi, the 15th July, 2021

**S.O. 479.**—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 03/2018 L.C.R.) of The Industrial Tribunal & Labour Court, Bhilwara, (Rajasthan) as shown in the Annexure, in the Industrial dispute between the employers in relation to The Chief Manager, Bharat Sanchar Nigam Limited, Chittorgarh, (Rajasthan); The Khatri Air Cooler Services, Sikar, (Rajasthan) and Shri Raju Garg, worker which was received along with soft copy of the award by the Central Government on 15.07.2021.

[No. L-42025/07/2021-IR (DU)]

D. K. HIMANSHU, Under Secy.

## अनुबंध

## औद्योगिक न्यायधिकरण एवं श्रम न्यायालय, भीलवाड़ा

पीठासीन अधिकारी: श्री मुकेश भार्गव, आर.जे.एस. (जिला न्यायाधीश संवर्ग)

प्रकरण संख्या : 3 सन् 2018 एल.सी.आर.

श्री राजू गर्ग पुत्र श्री कन्हैयालाल गर्ग,  
नि.-इन्दौरा, तह.-गंगारार, जिला- चित्तौड़गढ़।

...प्रार्थी

: बनाम :

1. मै. मुख्य प्रबंधक, बी.एस.एन.एल, गांधीनगर, सेक्टर नं. 5,  
मेवाड गर्ल्स कॉलेज के पास, चित्तौड़गढ़।2. मै. खत्री एयर कुलर सर्विसेज, जटिया बाजार,  
सीकर, जिला- सीकर (राज.)

...विपक्षी/नियोजकगण

## उपस्थित :

प्रार्थी की ओर से कोई हाजिर नहीं।

विपक्षी सं. एक के खिलाफ एकतरफा कार्यवाही।

विपक्षी सं. दो की ओर से कोई हाजिर नहीं है।

:: पंचाट ::

दिनांक 23.2021

प्रार्थी ने स्वयं स्वयं के सेवा पृथक्करण बाबत विवाद इस न्यायालय में औ.वि.अधि., 1947 की धारा 2 (ए) के तहत पेश किया-जिस पर प्रकरण दर्ज रजिस्टर किया जाकर विपक्षी को नोटिस जारी किये गये।

प्रार्थी की ओर से गत अनेक पेशियों से कोई हाजिर नहीं हो रहा है तथा दिनांक 19.2.2020 को वकील प्रार्थी श्री एम.एच. कुरेशी ने हिदायत पैरवी नहीं होना जाहिर किया। आज भी प्रार्थी की ओर से कोई हाजिर नहीं है। अतः ऐसा प्रतीत होता है कि प्रार्थी की अब इस प्रकरण में कोई रुचि नहीं है तथा वह इस प्रकरण में कोई कार्यवाही नहीं चाहता है। अतः 'कोई विवाद नहीं रहा' आशय का पंचाट जारी किया जाता है।

मुकेश भार्गव, न्यायाधीश

नई दिल्ली, 15 जुलाई, 2021

**का.आ. 480.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मुख्य प्रबंधक, भारत संचार निगम लिमिटेड, चित्तौड़गढ़, (राजस्थान); खत्री एयर कुलर सर्विसेज, सीकर (राजस्थान) और श्री ओम प्रकाश कच्छवा, कामगार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक न्यायाधिकरण एवं श्रम न्यायालय, भीलवाड़ा पंचाट (संदर्भ संख्या 05/2018 एल.सी.आर.) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 15.07.2021 को प्राप्त हुआ था।

[सं. एल-42025/07/2021-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 15th July, 2021

**S.O. 480.**—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 05/2018 L.C.R.) of The Industrial Tribunal & Labour Court, Bhilwara, (Rajasthan) as shown in the Annexure, in the Industrial dispute between the employers in relation to The Chief Manager, Bharat Sanchar Nigam Limited, Chittorgarh, (Rajasthan); The Khatri Air Cooler Services, Sikar, (Rajasthan) and Shri Om Parkash Kachchhawa, worker which was received along with soft copy of the award by the Central Government on 15.07.2021.

[No. L-42025/07/2021-IR (DU)]

D. K. HIMANSHU, Under Secy.

## अनुबंध

## औद्योगिक न्यायाधिकरण एवं श्रम न्यायालय, भीलवाड़ा

पीठासीन अधिकारी : श्री मुकेश भार्गव, आर.जे.एस. (जिला न्यायाधीश संवर्ग)

प्रकरण संख्या : 5 सन् 2018 एल.सी.आर.

श्री ओम प्रकाश कच्छावा पुत्र श्री होकम कच्छावा,  
नि.—हरनाथपुरा, तह.—राशमी, जिला— चित्तौड़गढ़

...प्रार्थी

: बनाम :

1. मै. मुख्य प्रबंधक, बी.एस.एन.एल, गांधीनगर, सेक्टर नं. 5,  
मेवाड गर्ल्स कॉलेज के पास, चित्तौड़गढ़।
2. मै. खत्री एयर कुलर सर्विसेज, जटिया बाजार, सीकर, जिला—  
सीकर (राज.)

...विपक्षी / नियोजकगण

## उपस्थित:

प्रार्थी की ओर से कोई हाजिर नहीं।

विपक्षी सं. एक के खिलाफ एकतरफा कार्यवाही।

विपक्षी सं. दो की ओर से कोई हाजिर नहीं है।

:: पंचाट ::

दिनांक 2.3.2021

प्रार्थी ने स्वयं स्वयं के सेवा पृथक्करण बाबत विवाद इस न्यायालय में औ.वि.अधि., 1947 की धारा 2 (ए) के तहत पेश किया—जिस पर प्रकरण दर्ज रजिस्टर किया जाकर विपक्षी को नोटिस जारी किये गये।

प्रार्थी की ओर से गत अनेक पेशियों से कोई हाजिर नहीं हो रहा है तथा दिनांक 19.2.2020 को वकील प्रार्थी श्री एम.एच. कुरेशी ने हिदायत पैरवी नहीं होना जाहिर किया। आज भी प्रार्थी की ओर से कोई हाजिर नहीं है। अतः ऐसा प्रतीत होता है कि प्रार्थी की अब इस प्रकरण में कोई रुचि नहीं है तथा वह इस प्रकरण में कोई कार्यवाही नहीं चाहता है। अतः 'कोई विवाद नहीं रहा' आशय का पंचाट जारी किया जाता है।

मुकेश भार्गव, न्यायाधीश

नई दिल्ली, 15 जुलाई, 2021

**का.आ. 481.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय क्षेत्रीय अधिकारी, केन्द्रीय माध्यमिक शिक्षा बोर्ड, क्षेत्रीय कार्यालय, अजमेर, (राजस्थान); किंग सिक्योरिटी गार्ड सर्विसेज प्रा लिमिटेड, नई दिल्ली के प्रबंधन के संबंध में नियोजकों और श्री रोशन कुमार खटीकी, कामगार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में अधिकरण श्रम न्यायालय एवं न्यायालय एवं औद्योगिक न्यायाधिकरण अजमेर (राजस्थान) पंचाट के (संदर्भ संख्या सीआईटीआर 05/2020) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है।

[सं. ए. जे.-8/2/3/2020-आईआर]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 15th July, 2021

**S.O. 481.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CITR05/2020) of the Industrial Tribunal & Labour Court, Ajmer as shown in the Annexure, in the industrial dispute between the employers in relation to The Regional officer, Central Board of Secondary education, Regional office, Ajmer, (Rajasthan); The King Security Gurards service Pvt. Limited, New Delhi (Rajasthan) and Shri Roshan Kumar Khatik, Worker.

[No. A. J.- 8/2/3/2020-IR]

D. K. HIMANSHU, Under Secy.

## अनुबंध

## श्रम न्यायालय एवं औद्योगिक न्यायाधिकरण, अजमेर (राज.)

पीठासीन अधिकारी : श्री रमाकांत शर्मा, आर.एच.जे.एस

प्रकरण संख्या सीआईटीर 5/2020

सीआईएस नम्बर 19/2020

भारत सरकार का रेफरेंस नं. ए.जे.—8/2/3/2020—आईआर दिनांक 24.3.2020

Shri Roshan Kumar Khatik, Sushila sadan,  
Rajendra School, Pahadganj, Ajmer

...प्रार्थी

## बनाम

- 1 The Regional officer, Central Board of Secondary education,  
Regional office, Todarmal Marg, Ajmer-305001
- 2- M/s. King Security Gurards service Pvt. Limited 39A/102,  
Mohammadpur village Near Ram Mandir, New Delhi-110066

...अप्रार्थी

## उपस्थिति :

प्रार्थी की ओर से : प्रार्थी स्वयं उपस्थित।

—: अवार्ड :—

दिनांक: 19.01.2021

1. केन्द्र सरकार की ओर से इस न्यायालय के अधिनिर्णयार्थ निम्न रेफरेंस प्रेषित किया गया है:—

“Whether the action of the managment of M/s. King Security Gurards service Pvt. Limited 39A/102, Mohammadpur village Near Ram Mandir, New Delhi & Ors. in terminating the services of Shri Roshan Kumar Khatik engaged at Central Board of Secondary Education Ajmer w.e.f 31-10-2019 is legal and justified? If not, to what relief workman is entitled and from which date?”

2. उक्त रेफरेंस इस न्यायालय को प्राप्त होने पर इसे दर्ज किया गया। प्रार्थी पक्ष को साधारण व रजिस्टर्ड डाक से नोटिस जारी किया गया।
3. प्रार्थी की ओर से दिनांक 24.8.2020 को व्यक्तिश उपस्थित होकर क्लेम पेश करने के लिए समय चाहा गया तत्पश्चात दिनांक 21.9.2020 एवं 23.11.2020, 18.1.2021 तारीख नियत की गई। प्रार्थी की ओर से दिनांक 18.1.2021 को एक प्रार्थनापत्र प्रस्तुत कर कथन किया गया है कि उसका जो अप्रार्थीगण के विरुद्ध प्रकरण है उसमें वह कोई कार्यवाही नहीं चाहता है और उसे समाप्त करना चाहता है और अप्रार्थीगण के विरुद्ध कोई कार्यवाही नहीं चाहता है। प्रकरण को खारिज किए जाने की प्रार्थना की गई है।
4. मैंने पत्रावली का ध्यानपूर्वक अवलोकन किया और प्रार्थी को सुना। प्रार्थी की प्रार्थना अनुसार इस इस प्रकरण में “कोई विवाद शेष नहीं” अवार्ड पारित किया जाना उपयुक्त एवं न्यायसंगत है।

## —:आदेश:—

अतः उक्त विवेचनानुसार उक्त निर्देशित विवाद में कोई विवाद शेष नहीं अवार्ड (No Dispute Award) पारित किया जाता है।

रमाकांत शर्मा, न्यायाधीश

नई दिल्ली, 15 जुलाई, 2021

**का. आ. 482.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार महाप्रबंधक, बीएसएनएल हिसार, (हरियाणा) के प्रबंधतंत्र के संबद्ध नियोजकों और आईडी नंबर 37/2014 श्री भरत शर्मा, आईडी नंबर 38/2014 श्री राजेश कुमार, आईडी नंबर 39/2014 श्री शंकर लाल शर्मा, आईडी नंबर 41/2014 श्री धर्मवीर, आईडी नंबर 42/2014 श्री सुरेश चंदर, आईडी नंबर 43/2014 श्री राजबीर सिंह, आईडी नंबर 44/2014 श्री वेद प्रकाश, आईडी नंबर 45/2014 श्री पवन पांडे, आईडी नंबर 54/2014 श्री रमेश कुमार, आईडी नंबर 55/2014 श्री मदन बाबू, आईडी नंबर 56/2014 श्री सूरज मल, आईडी नंबर

57/2014 श्री राकेश कुमार, आईडी नंबर 58/2014 श्री पृथ्वीराज, आईडी नंबर 59/2014 श्री राम चंदर, आईडी नंबर 60/2014 श्री सूबे सिंह, आईडी नंबर 61/2014 श्री धर्म पाल, क्रमांक 62/2014 श्री रविन्द्र कुमार, क्रमांक 63/2014 श्री सुरजीत सिंह, क्रमांक 64/2014 श्री बलवंत सिंह, क्रमांक 85/2014 श्री विकास, क्रमांक 86/2014 श्री प्रदीप कुमार, आईडी नंबर 87/2014 श्री बंसी लाल, आईडी नंबर 88/2014 श्री सुनील कुमार, आईडी नंबर 89/2014 श्री भगवान दास, आईडी नंबर 90/2014 श्री राम स्वार्थ, आईडी नंबर 91/2014 श्री. मोमन सिंह, आईडी नंबर 92/2014 श्री सत्यवान, आईडी नंबर 97/2014 श्री मुकेश कुमार, आईडी नंबर 98/2014 श्री हरपाल सिंह, आईडी नंबर 99/2014 श्री सूरज भान, आईडी नंबर 100/2014 श्री राजेंद्र कुमार, आईडी नंबर 101/2014 श्री नरेंद्र कुमार, आईडी नंबर 102/2014 श्री राजेश कुमार, आईडी नंबर 107/2014 श्री सतवीर सिंह, आईडी नंबर 108/2014 श्री हरपाल सिंह, आईडी नंबर 109/2014 श्री संजीव कुमार, कामगार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रमन्यायालय-II, चंडीगढ़ के पंचाट (संदर्भ संख्या 37/2014, 38, 39, 41, 42, 43, 44, 45, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 85, 86, 87, 88, 89, 90, 91, 92, 97, 98, 99, 100, 101, 102, 107, 108 & 109/2014) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 17.06.2021 को प्राप्त हुआ था।

[सं. एल-L-40012/47/2014-IR(DU), L-40012/49/2014-IR(DU), L-40012/50/2014-IR(DU), L-40012/42/2014 IR(DU), L-40012/43/2014-IR(DU), L-40012/44/2014-IR(DU), L-40012/45/2014-IR(DU), L-40012/46/2014-IR(DU), L-40012/68/2014-IR(DU), L-40012/58/2014-IR(DU), L-40012/59/2014-IR(DU), L-40012/60/2014-IR(DU), L-40012/61/2014-IR(DU), L-40012/62/2014-IR(DU), L-40012/63/2014-IR(DU), L-40012/64/2014-IR(DU), L-40012/65/2014-IR(DU), L-40012/66/2014-IR(DU), L-40012/67/2014-IR(DU), L-40012/82/2014-IR(DU), L-40012/83/2014-IR(DU), L-40012/86/2014-IR(DU), L-40012/84/2014-IR(DU), L-40012/85/2014-IR(DU), L-40012/78/2014-IR(DU), L-40012/79/2014-IR(DU), L-40012/77/2014-IR(DU), L-40012/97/2014-IR(DU), L-40012/101/2014-R(DU), L-40012/100/2014-IR(DU), L-40012/99/2014-IR(DU), L-40012/102/2014-R(DU), L-40012/98/2014-IR(DU), L-40012/104/2014-R(DU), L-40012/103/2014-R(DU), L-40012/96/2014- आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 15th July, 2021

**S.O. 482.**—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 37, 38, 39, 41, 42, 43, 44, 45, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 85, 86, 87, 88, 89, 90, 91, 92, 97, 98, 99, 100, 101, 102, 107, 108, & 109 of 2014) of the Central Government Industrial Tribunal-cum-Labour Court -2 Chandigarh, as shown in the Annexure, in the Industrial dispute between the employers in relation to The General Manager, BSNL Hissar, (Haryana) and Id No. 37/2014 Sh. Bharat Sharma, Id No. 38/2014 Shri Rajesh Kumar, Id No. 39/2014 Shri Shankar Lal Sharma, Id No. 41/2014 Shri Dharambir, Id No. 42/2014 Shri Suresh Chander, Id No.43/2014 Shri Rajbir Singh, Id No. 44/2014 Shri Ved Parkash, Id No. 45/2014 Shri Pawan Pandey, Id No. 54/2014 Shri Ramesh Kumar, Id No.55/2014 Shri Madan Babu, Id No. 56/2014 Shri Suraj Mal, Id No.57/2014 Shri Rakesh Kumar, Id No. 58/2014 Shri Prithviraj, Id No. 59/2014 Shri Ram Chander, Id No. 60/2014 Shri Sube Singh, Id No. 61/2014 Shri Dharam Pal, Id No.62/2014 Shri Ravinder Kumar, Id No. 63/2014 Shri Surjeet Singh, Id No.64/2014 Shri Balwant Singh, Id No. 85/2014 Shri Vikas, Id No. 86/2014 Shri Pardeep Kumar, Id No. 87/2014 Shri Bansi Lal, Id No. 88/2014 Shri Sunil Kumar, Id No. 89/2014 Shri Bhagwan Das, Id No. 90/2014 Shri Ram Swarth, Id No.91/2014 Shri. Moman Singh, Id No.92/2014 Shri Satyawar, Id No. 97/2014 Shri Mukesh Kumar, Id No. 98/2014 Shri Harpal Singh, Id No. 99/2014 Shri Suraj Bhan, Id No.100/2014 Shri Rajender Kumar, Id No.101/2014 Shri Narender Kumar, Id No. 102/2014 Shri Rajesh Kumar, Id No.107/2014 Shri Satvir Singh, Id



No.108/2014 Shri Hrpal Singh, Id No.109/2014 Shri Sanjeev Kumar, which was received along with soft copy of the award by the Central Government on 17.06.2021.

[No. L-40012/47/2014-IR(DU), L-40012/49/2014-IR(DU), L-40012/50/2014-IR(DU), L-40012/42/2014 IR(DU), L-40012/43/2014-IR(DU), L-40012/44/2014-IR(DU), L-40012/45/2014-IR(DU), L-40012/46/2014-IR(DU), L-40012/68/2014-IR(DU), L-40012/58/2014-IR,(DU), L-40012/59/2014-IR(DU), L-40012/60/2014-IR(DU), L-40012/61/2014-IR(DU), L-40012/62/2014-IR(DU), L-40012/63/2014-IR(DU), L-40012/64/2014-IR(DU), L-40012/65/2014-IR(DU), L-40012/66/2014-IR(DU), L-40012/67/2014-IR(DU), L-40012/82/2014-IR(DU), L-40012/83/2014-IR(DU), L-40012/86/2014-IR(DU), L-40012/84/2014-IR(DU), L-40012/85/2014-IR(DU), L-40012/78/2014-IR(DU), L-40012/79/2014-IR(DU), L-40012/77/2014-IR(DU), L-40012/97/2014-IR(DU), L-40012/101/2014-R(DU), L-40012/100/2014-IR(DU), L-40012/99/2014-IR(DU), L-40012/102/2014-R(DU), L-40012/98/2014-IR(DU), L-40012/104/2014-R(DU), L-40012/103/2014-R(DU), L-40012/96/2014-IR(DU)]

D. K.HIMANSHU, Under Secy.

### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

**Present:** Sh. A.K. Singh, Presiding Officer

Sl. No.	REFERENCE NO.	ID NO.	NAME OF WORKMAN	DATE OF JOINING	DATE OF TERMINATION
1.	L-40012/47/2014-IR(DU)	37/2014	Sh. Bharat Sharma S/o Sh. Ram Niwas Shama, R/o Vill-Charnod, HISSAR-125001	02.03.2009	10.11.2013
2.	L-40012/49/2014-IR(DU)	38/2014	Sh. Rajesh Kumar S/o Shri Roop Chand, R/o Vill-Sau Uklana, HISSAR-125001	03.03.2003	10.11.2013
3.	L-40012/50/2014-IR(DU)	39/2014	Sh. Shankar Lal Sharma S/o Sh. Ram Kumar Sharma, R/o Gali No.8, Vinod Nagar, HISSAR-125001	01.04.1999	10.11.2013
4.	L-40012/42/2014-IR(DU)	41/2014	Sh. Dharambir S/o Sh. Ghisa Ram, R/o Gagandeep Colony, Balsand Road, HISSAR-125001	20.06.2010	10.11.2013
5.	L-40012/43/2014-IR(DU)	42/2014	Sh. Suresh Chander S/o Sh. Suraj Mal, R/o Bhagat Singh Nagar, Kanganpur Road, SIRSA (Hry)-125055	10.01.1991	10.11.2013
6.	L-40012/44/2014-IR(DU)	43/2014	Sh. Rajbir Singh S/o Sh. Manphool, R/o Vill-Aryan Nagar HISSAR-125001	01.01.2000	10.11.2013
7.	L-40012/45/2014-IR(DU)	44/2014	Sh. Ved Parkash, R/o Vill-Kherpur Jandi Wali Gali, SIRSA (Haryana)-125055	01.03.2003	10.11.2013
8.	L-40012/46/2014-IR(DU)	45/2014	Sh. Pawan Pandey S/o Sh. Ram Pher Panday, R/o H. No.244, New Jawahar Nagar, Near Baba Balak Nath Mandir, Rampur Road, HISSAR-125001	01.01.2010	10.11.2013
9.	L-40012/68/2014-IR(DU)	54/2014	Sh. Ramesh Kumar S/o Shri. Ranjeet Singh, R/o Vill-Kagdana, SIRSA (Haryana)-125001	01.03.1998	10.11.2013
10.	L-40012/58/2014-IR(DU)	55/2014	Sh. Madan Babu S/o Sh. Vasu Dev, R/o Railway Colony, SIRSA (Haryana)-125055	01.01.1991	10.11.2013
11.	L-40012/59/2014-	56/2014	Sh. Suraj Mal S/o SH. Ram Kumar, R/o Village	03.01.2002	10.11.2013

	IR(DU)		Kirada, HISSAR-125055		
12.	L- 40012/60/2014- IR(DU)	57/2014	Sh. Rakesh Kumar S/o SH. Sube Singh, R/o Vill- Nayana, Hissar (Haryana)-125001	13.05.2007	10.11.2013
13.	L- 40012/61/2014- IR(DU)	58/2014	Sh. Prithviraj S/o Sh. Sethu Ram, R/o New Fraiend Enclave Colony, Azad Nagar, HISSAR-125001	23.08.1995	10.11.2013
14.	L- 40012/62/2014- IR(DU)	59/2014	Sh. Ram Chander, S/o Shri Kishan Lal, R/o Vill- Madanpura, Uklalana Mandi, HISSAR-125001	29.03.2012	10.11.2013
15.	L- 40012/63/2014- IR(DU)	60/2014	Sh. Sube Singh S/o Shri Lilu Ram, R/o Village- Niyana HISSAR-125001	15.07.1995	10.11.2013
16.	L- 40012/64/2014- IR(DU)	61/2014	Sh. Dharam Pal S/o Shri Ram Kumar, R/o Vill- Dhandi Kutubpur, HISSAR-125001	15.10.2003	10.11.2013
17.	L- 40012/65/2014- IR(DU)	62/2014	Sh. Ravinder Kumar S/o Sh. Om Parkash, R/o Ravidass Mohalla Ward No.18, Rohana Fatehabad, Haryana-125120	01.03.1998	10.11.2013
18.	L- 40012/66/2014- IR(DU)	63/2014	Sh. Surjeet Singh S/o Sh. Joginder Singh, R/o Vill- Simbal, Tohana, Fatehabad, Haryana-125001	06.06.1998	10.11.2013
19.	L- 40012/67/2014- IR(DU)	64/2014	SH. Balwant Singh, S/o SH. Raja Ram, R/o Vill- Khairekha, SIRSA (Haryana)-125001	01.06.2008	10.11.2013
20.	L- 40012/82/2014- IR(DU)	85/2014	Sh. Vikas S/o Sh. Mahavir, R/o Vill-Madho Sidhana, SIRSA (Haryana) 125055	04.11.2002	10.11.2013
21.	L- 40012/83/2014- IR(DU)	86/2014	Sh. Pardeep Kumar S/o Sh. Balbir Singh R/o Vill- Hasan Garh, HISSAR-125001	01.07.2004	10.11.2013
22.	L- 40012/86/2014- IR(DU)	87/2014	Sh. Bansi Lal S/o SH. Om Parkash, R/o Vill- Dhigtaniya, SIRSA (Haryana) 125055	15.12.1995	10.11.2013
23.	L- 40012/84/2014- IR(DU)	88/2014	Sh. Sunil Kumar S/o Sh. SUBash Chand R/s H No.735, Badwali Dhadi, HISSAR-125001	01.03.2002	10.11.2013
24.	L- 40012/85/2014- IR(DU)	89/2014	Sh. Bhagwan Das S/o Sh. Sohan Lal, R/o Vill- Madho Sigana, SIRSA (Haryana)-125055	02.06.2006	10.11.2013
25.	L- 40012/78/2014- IR(DU)	90/2014	Sh. Ram Swarth S/o SH. Ram Rattan, Vill- Kherpur Jandi Wali Gali SIRSA (Haryana)- 125055	01.03.2003	10.11.2013
26.	L- 40012/79/2014- IR(DU)	91/2014	SH. Moman Singh S/o Sh. Bhud Ram R/o Talwandi Rana HISSAR-125001	08.03.2006	10.11.2013
27.	L- 40012/77/2014- IR(DU)	92/2014	Sh.Satyawan S/o Sh. Setu Ram, R/o New Fraiend Envlave Colony, Azad Nagar, HISSAR-125001	20.02.1998	10.11.2013
28.	L- 40012/97/2014- IR(DU)	97/2014	Sh. Mukesh Kumar S/o SH. Ram Kumar R/o Vill- Byana Kheda Barwala, HISSAR-125001	01.01.2009	10.11.2013
29.	L- 40012/101/2014- R(DU)	98/2014	SH. Harpal Singh S/o SH. Shiv Nand R/o Vill- Haidon Wala Teh-Tohana Dist-Fatehabad-125120	05.01.2007	10.11.2013
30.	L- 40012/100/2014- IR(DU)	99/2014	Sh. Suraj Bhan S/o Laxmi Chand, R/o Vill- Kotli, PO-Suchan, SIRSA (Haryana)125055	01.03.2003	10.11.2013
31.	L- 40012/99/2014- IR(DU)	100/2014	Sh. Rajender Kumar S/o Bhana Ram, R/o Vill- Hjira, SIRSA(Haryana)-125055	01.01.2003	10.11.2013
32.	L-	101/2014	Sh. Narender Kumar S/o Sh. Ram Chander, R/o	01.01.1998	10.11.2013

	40012/102/2014-R(DU)		Vill-Satroad Khas, HISSAR-125044		
33.	L- 40012/98/2014-IR(DU)	102/2014	Sh. Rajesh Kumar S/o Sh. Jagdish Chander R/o Ashok Nagar, Azad Nagar, HISSAR-125007	01.03.2005	10.11.2013
34.	L- 40012/104/2014-R(DU)	107/2014	SH. Satvir Singh S/o Karam Chand, R/o Village Niyana, HISSAR-125005	07.03.2007	10.11.2013
35.	L- 40012/103/2014-R(DU)	108/2014	Sh. Hrpal Singh S/o SH. Tirlochan Singh, R/o Vill-Kharka, SIRSA (Haryana)-125055	07.08.1992	10.11.2013
36.	L- 40012/96/2014-IR(DU)	109/2014	Sh. Sanjeev Kumar S/o SH. Ram Chander, R/o Vill-Sarsoda, HISSAR-125001	05.05.2004	10.11.2013

... Workmen

**Versus**

General Manager, BSNL Hissar, Railway Road,  
Red Square Market Railway Road Main Office, Hissar.

... Respondent/Management

**AWARD****Passed on:-17.03.2021**

1. The core issue involved in the above references is that whether the alleged termination of the workmen w.e.f. 10.11.2013 is legal and if not what relief the workmen are entitled in all connecting references. The facts and the law involved in all these cases are the same hence, these cases are decided on the request of both the parties by a common judgment, making leading case titled as Bharat Sharma Vs. B.S.N.L., bearing ID No.37/2014.

2. The facts, in brief are that the workmen/petitioners were appointed as labouror on respective dated mentioned as above by General Manager BSNL Hissar, Railway Road, Red Square Market Railway Road Main Office Hissar for doing the work in the Sirsa Area at minimum wage rate prescribed by the Central Govt. but the management never paid the said minimum wage rate and there was always a problem regarding the difference of wages. The respondent/management always show the workmen/petitioners employment in record under different contractors which amounts to unfair labour practice whereas the performance of workmen/petitioners were remained good & satisfactory during the tenure of service with management. No notice was given to the workmen/petitioners whereas they had completed more than 240 days of service continuously as required under Section 25-F of the I.D. Act. The workmen/petitioners are entitled to the protection of Section 25-F, 25-G and 25-H of the Industrial Disputes Act which the respondent/management has not followed at the time of terminating the services of the workmen/petitioners. The management has also not paid any retrenchment compensation to the workmen/petitioners at the time of termination of their services. The termination of the workmen/petitioners from the service is illegal, immoral, unlawful and against the principal of natural justice. The management has adopted unfair labour practice while terminated the services of the workmen/petitioners as the work against which the workmen/petitioners were working still exists in the department and the junior of the workmen/petitioners were retained in service and new man has been appointed but workmen/petitioners were not preferred which is a punishable offence under Section 32 & 34 of the I.D. Act and in view of Section 2(ra) & Schedule V of the Act. It is therefore prayed that respondent/management be directed that undersigned workmen/petitioners may kindly be taken back in service with continuity of service and full back wages.

3. Management has filed its written statement, alleging therein workmen/petitioners were never appointed by the management as stated by the workmen/petitioners in their claim statements. The management issues proper appointment orders whenever an employee is appointed and also issues a unique employee ID code which is known as HRMS number through which the employee gets his salary from the management. The BSNL Hissar awards work of upkeep and maintenance of some infrastructure on contract basis as per BSNL Corporate Office guidelines. BSNL Hissar outsources work with definite scope of work to agencies on certain terms and conditions. BSNL makes the payment to the works contractors on approved rates for providing maintenance services not as per number of employees engaged by the works contractors. Contractor's manpower is not bound to follow BSNL employee conduct rules simply because they are not BSNL employees. The workmen were not on the strength of the management and they were not engaged by the management therefore, the question of termination of their services does not arise by management. Neither workmen/petitioners were engaged on work nor removed from work by the management hence, question of completion of 240 days or issuance of prior notice does not arise. The workmen/petitioners are not entitled to the protection of Section 25-F, 25-G & 25-H of the ID Act. It is denied that the management has made fresh

appointment after alleged termination of the workmen/petitioners. The workmen/petitioners were never appointed or terminated by the management. It is therefore, respectfully prayed that in view of the submissions made, the present claim statements filed by the workmen/petitioners be dismissed with costs.

4. In order to prove the facts alleged in the claim petition, each workmen has been examined in respect of their claim petitions as AW1/1. It is pertinent to mention that the affidavits filed by these workmen are same as well as cross-examination done by the learned counsel of the management are similar. Workman Bharat Sharma has stated during the course of cross-examination that he was directly appointed by the management of BSNL without any advertisement or letter of appointment. He has further stated that BSNL has not issued any attendance-sheet and salary was paid to him by the SDO in cash without obtaining any receipt. This witness has further stated that there is BSNL Thekedar Workers Union in Hisar. This witness has denied the suggestion made by the management counsel that documents produced by him does not belong to BSNL or signed by any officer of BSNL. Workman Sube Singh has stated that his PF is deducted but he does not know who was the authority to deduct the PF. Thus, statements of all workmen are same as given by the respective workmen are same as is mentioned above with respect to the claimant Bharat Sharma and Sube Singh.

5. Workmen/petitioners have also examined another witness namely Amar Singh in ID No.102/2014 titled as Rajesh Kumar Vs. BSNL, ID No.87/2014 titled as Bansi Lal Vs. BSNL, ID No.109/2014 titled as Sanjeev Kumar Vs. BSNL, ID No.54/2014 titled as Ramesh Kumar Vs. BSNL, ID No.99/2014 titled as Suraj Bhan Vs. BSNL, ID No.88/2014 titled as Sunil Kumar Vs. BSNL, ID No.64/2014 titled as Balwant Singh Vs. BSNL, ID No.56/2014 titled as Suraj Mal Vs. BSNL, ID No.107/2014 titled as Satbir Singh Vs. BSNL, ID No.62/2014 titled as Ravinder Kumar Vs. BSNL, who has stated on Oath that he knew the above workmen who were working in the office of SDO Barwala. He has stated that he used to take work from these workmen when they were sent with him by the SDO/JE. This witness has further stated that he did not pay the salary to these workmen. During the course of cross-examination, this witness has stated that he did not mark the presence of these workmen anywhere. Thus, the statement of this witness is not conclusive because utilizing these workmen with Amar Singh the alleged employee of BSNL could not be deemed to be the ultimate control of the BSNL-management. This witness himself has admitted that neither he marked attendance of these workmen nor has knowledge about the payment of these workmen.

6. Management has examined Smt. Paramjeet Kaur, AGM Legal in most of the cases while witness Balbir Singh has also been examined in few cases after the transfer of the witness Paramjeet Kaur, AGM Legal to some other place. Management witness Smt. Paramjeet Kaur has stated that he joined at Hisar in June 2009 while serving from 1995 to the BSNL at Karnal. This witness has stated that she is not aware with the contractors engaged in the year 2009 and have no records in respect of contractors engaged prior to 2012. As per this witness prior to 2012 the work used to be done by the officials of the department itself. This witness has also accepted that documents filed as WW5, WW6 and WW7 related with the workers and management through the settlement arrived at before the conciliation officer. This witness has expressed her inability to say whether the workmen were doing the same work through contractors prior to 2012-2013. This witness has been further cross-examined on 26.04.2018 where she has stated that supervisory control over the workman was that of the official of the management and in the year 2009-10 M/s Bhagwati Enterprises was the contractor. This witness has further stated that notices were not issued to the workmen after their alleged termination because they were engaged by the contractors.

7. Witness Balbir Singh, Assistant Manager(Legal) has stated in his cross-examination that he has joined the department in the year 1982 and submitted his affidavit due to transfer of previous HR Manager Smt. Paramjeet Kaur. This witness has stated that he cannot tell about the workmen as they were the employees of the contractors at the relevant time. This witness has accepted that services of contractors were taken from the year 2010 and before that workmen were rendering their services directly in BSNL Hisar. This witness has denied the suggestion that workmen were terminated due to the demand for regularization from 01.11.2013 by the BSNL. This witness has further accepted that services rendered by the workmen were supervised by the officers of the management at BSNL Hisar.

8. Heard the learned AR of the workmen Sh. Jang Bahadur as well as learned counsel for the management Sh. D.R. Sharma and perused the file carefully.

9. The issue as to whether the workmen were engaged by the employer/management directly or through contractors is the bone of contention between the parties. There is no dispute about proposition of law that onus to prove that claimants were in the employment of management is always on the workmen/claimants and it is for the workmen to adduce evidence to prove factum of their employment with the management. Such evidence may be in form of receipt of salary or wages for 240 days or record of their appointment or engagement for that period to show that they have worked with the respondent-management for 240 days or more in a calendar year. In this regard, reference may be made to judgment of Hon'ble Supreme Court in case of Batala Coop. Sugar Mills Ltd. Vs. Sowaran Singh, (2005) 8 Supreme Court Cases 481 as well as Director Fisheries terminated Division Vs. Bhikubhai Meghajibhai Gavda(2012) 1 SCC 47.

10. Question remains to be seen whether these workmen have proved that they were directly engaged under the respondent-management from the year 1994 or afterwards and regularly continued till their termination. This fact has to be proved by the documentary evidence as well as oral evidence. At the very outset, it may be mentioned that there is no single reliable document to prove that workmen/claimants were directly employed by the respondent-management. In this connection, workman Bharat Sharma and others have accepted that neither any appointment letter nor any termination letter was issued by the respondent-management. Undoubtedly, witness examined by the respondent-management namely Smt. Paramjeet Kaur and Balbir Singh have categorically stated in their evidence that they were not employed by the management as such, neither notice nor retrenchment compensation was given by management.

11. The Hon'ble Supreme Court after analysing the catena of cases has laid down in **Balwant Raj Saluja Vs. Air India Limited in Civil Appeal No.10266 dated 25.08.2014**, two well recognised tests to find out whether the labours are the contract employees of the principal employer as follows:-

- (1) Whether the principal employer pays the salary instead of contractor and
- (2) Whether the principal employer controls and supervise the work of the employees?

The facts regarding the payment of salary by the management or contractor has not been specifically stated in the claim petition of the workmen. In fact, claim petition is totally silent regarding the payment of wages, salary, letter of appointment or anything likewise. Similarly, workmen namely Bharat Sharma or others have not mentioned anything regarding the mode of payment of wages, salaries etc. in their affidavits. Thus, this basic features for holding the relationship of employer and employee is totally lacking not in the pleading but also in the evidence submitted by the workmen. In this connection, learned AR for the workmen has contended that payment of salary was subject to the control and supervision of the management and virtually it was paid by the management as is alleged by the witness during the course of cross-examination. I am not satisfied with the arguments of the learned AR of the workmen as nothing is mentioned in pleading/claim petition as well as affidavits submitted by the witnesses in support of the claim petitions. It is also pertinent to mention that nothing is on record in the form of documentary evidence that these workmen were directly paid by the management. It is surprising that none of the witness has stated in his affidavit about the amount of salary or wages payable to him either by the management or by the contractor. Thus, on this issue, firstly, it can be incurred that there is nothing on record to prove the factum of direct payment of salary by the management.

12. Secondly, so far as, the question of controls and supervision is concerned. Witnesses examined by the workmen have categorically stated that their works were supervised by the officials of the management. Except this, nothing is brought on record to prove that it is management who were supervising and controlling the work of claimants. The apex court while explaining the factor of supervision and control in the case of **International Airport Authority of India vs. International Air Cargo Workers Union [209 (13) SCC374]** has held as follows:-

***"If the contract is for supply of labour, necessarily, the labour supplied by the contractor will work under the directions, supervision and control of the principal employer but that would not make the worker a direct employee of the principal employer, if the salary is paid by contractor, if the right to regulate employment is with the contractor, and the ultimate supervision and control lies with the contractor.***

***The principal employer only controls and directs the work to be done by a contract labour, when such labour is assigned/allotted/sent to him. But it is the contractor as employer, who chooses whether the worker is to be assigned/allotted to the principal employer or used otherwise. In short, worker being the employee of the contractor, the ultimate supervision and control lies with the contractor as he decides whether the employee will work and how long he will work and subject to what conditions. Only when the contractor assigns/sends the worker to work under the principal employer, the worker works under the supervision and control of the principal employer but that is secondary control. The primary control is with the contractor."***

13. Thus, the principal enunciated by the Hon'ble Supreme Court clearly establishes that mere supervision of work is not sufficient to prove the relationship of employer and employee till it is proved that there was a complete control and supervision. The management control includes the authority of dismissal, taking of disciplinary action and continuity of service etc. Claim petition filed by the claimants are mum on this score and witnesses examined by the claimants have not mentioned any specific averments in their affidavits regarding the appointment, authority of dismissal or taking of disciplinary action by the management. There is nothing on record to prove that it is the management who grants their leave or has authority to take any disciplinary action. In my considered opinion, mere saying of supervision regarding the execution of the work as alleged by the witnesses may not be called effective and absolute control. Such control is being emphasised to control the work of the management for a specific work in efficient manner done by the management in the establishment.

14. Undoubtedly, in Tribunal cases, has to be decided on the basis of the preponderance of probability and not the proof beyond reasonable doubt. In these cases, the oral evidence adduced by the workmen regarding the contractors raises bona fide doubt about the claim of the workmen. There is no doubt that the oral evidence submitted by the witnesses of the management namely Smt. Paramjeet Kaur and Sh. Balbir Singh reveals that there was no contract system in the management of BSNL before the year 2009-10, and workers were engaged by the management itself. But it is equally true that there is no substantive evidence on record to prove that claimants were rendering their services directly under the establishment because no documentary evidence is filed by the workmen. AR of the workmen heavily placed reliance on claim petition filed with respect of payment of minimum wages under the Minimum Wages Act before the Regional Labour Commissioner, Chandigarh. Learned AR argued that due to re-conciliation between the parties in the presence of D.R. Dhali and Assistant General Manager Sh. Hanuman Prasad and representative of the workmen Satbir Singh Pardhan, Ramesh Kumar, Secretary the above officers of the management of BSNL had given assurance that they shall ensure the payment of minimum wages to the workmen by which representative of the Thekedaar Union were satisfied. As per the argument of the AR of the workmen, this re-conciliation proceeding is concluded between the representative of the workmen as well as officials of the BSNL which is ample proof that workmen were rendering their services under the BSNL directly. Contrary to this, learned counsel of the management contended that it cannot be inferred by way of these documents that workmen were rendering their services under the management of BSNL directly because of assurance. In fact it was given by the officials to ensure the payment of minimum wages by the contractors. Similarly, learned AR of the workmen contended that if workmen were not rendering their services under the BSNL then there was no need to get call of strike of the workmen by offering juice to the striking workmen by the officials of the management as is evident from the photocopy of the papers attached with the file. Learned counsel of the management contended that the strike was going on before the main gate of the BSNL Head Office at Hisar and workers were rendering their services at the relevant time for the management hence mere offering juice to call of strike after conciliation does not amount any relationship of employer and employee directly.

15. Perusal of the claim petition filed under Section 20(2) of the Minimum Wages Act by workmen Sunil Kumar and 24 others through AR Jang Bahadur against General Manager BSNL and M/s Ashok Gupta contractor at the relevant time reveals that it was the definite stand of the workmen that they were rendering their services under the control of BSNL Hisar from the last many years under different contractors and lastly from 11.06.2013 they were working under respondent no.2 i.e. contractor M/s Ashok Gupta. In Para 2 of the claim petition, it is also mentioned that workmen were doing work of respondent no.1 under the direction and control of various contractors at minimum wages fixed by the Central Government. Learned counsel of the management contended that as per pleading of the workmen/claimants under Minimum Wages Act is a proof that they were rendering their services under different contractors for the work of the respondent-management. Learned counsel further argued that this is the admission of the workmen itself before the concerned authority and there is no need on behalf of the management to prove that they were the employees of the contractors at relevant time because admission does not require any further proof under Section 58 of the Evidence Act. It appears from the record that there was a dispute with respect to the payment of minimum wages with the contractor Ashok Gupta resulting this petition before the authority under the Minimum Wages Act. The contents of the petition certainly demolish the stand of the claimant/workmen under the Industrial Disputes Act that they were directly engaged by the respondent-BSNL, Hisar and working under the officials of the management. I am of the considered opinion that it is not possible for the workmen to take different stand on different Courts by asserting different facts about their status as an employee of the contractor or as of BSNL-establishment. In brief, it may be observed that the evidences adduced by these workmen with respect to their services rendered in respondent-establishment and attending the complaints or pertaining to other activities is not sufficient to prove the direct relationship of employer and employee or master and servant between these workmen and BSNL-establishment. Contrary to this, documentary evidence of the workmen itself is proof that they have accepted working under the contractors in different times for the work of the establishment.

16. Learned AR of the workmen has drawn my attention towards the judgments of the Hon'ble Supreme Court in Steel Authority of India Ltd. & Oths. Vs. National Union Water Front Workers, 2001(4) S.C.T. Page 1 and argued that in fact claimants were working under the establishment itself but they were shown as employee of the contractors under the contract which was camouflage and fixitious to avoid the liability under the different Acts including the ID Act as well as Minimum Wages Act etc. there is an observation about the relationship of employer and employee by holding that it depends on facts and circumstances of given case. In fact no doubt the judgment of the Apex Court in Steel Authority of India (Supra) is authority to the subject in which Hon'ble Supreme Court was considering the implication of the notification issued under Section 10 of the CLR Act by appropriate government and automatic absorption of the contract labour working under the principal employer as an employee followed by a notification under the CLR Act. Learned AR of the workmen candidly admitted that Central Government /appropriate Government has not issued any notification under Section 10 of the Contract Labour(Regulation and Abolition) Act, 1970 with respect to the prohibition for contractual employee with respect to the BSNL Hisar. Workman has not adduced any such notification during

the course of proceeding as evidence before this Tribunal which clearly certifies that there is no such notification with respect to the BSNL, Hisar pertaining to the prohibition of the contract labour in view of Section 10 of the CLR Act. As such, the case law cited by the learned AR of the workmen and findings pertaining to the appropriate Government, notification under the CLR Act automatic absorption has no relevance with respect to the disputes between the parties these claim petitions before this Tribunal.

17. So far as the question pertaining to the non-compliance of the provisions of Section 25-F of the ID Act is concerned. It is not disputed that BSNL-establishment has neither issued any show cause notice nor given any compensation in lieu of notice as is envisaged under Section 25-F of the ID Act. Learned counsel of the management contended that workmen in fact were not the employees of the establishment as such, neither they are terminated by the BSNL-establishment nor such notices and compliance of Section 25-F of the Act is required by the establishment. In this connection, learned counsel of the management has placed reliance in the case of Municipal Corporation, Faridabad Vs. Siri Niwas, Appeal(Civil) No.1851 of 2002, decided on 06.09.2004, Rajasthan State Ganganagar S. Mills Ltd. Vs. State of Rajasthan & Anr. Civil Appeal No.5969 of 2004, decided on 13.09.2004 as well as State of Rajasthan, Manager RBI Bangalore Vs. S. Mani & Ors. Civil Appeal No.6306-6316 of 2003 decided on 14.03.2005. Learned AR of the workmen contended that workmen are rendering their services with the management for so many years and they had completed 240 days in the year 2013 before termination by the BSNL-establishment. As per pleading of the workmen they were terminated from 10.11.2013 without compliance of Section 25-F, 25-G and 25-H of the ID Act. It is pertinent to mention that pleadings required specific averments with respect to the facts alleged in it. It is not specifically pleaded that workmen were retrenched/terminated by the management in corresponding year i.e. on 10.11.2013 even they had rendered 240 days of service in the BSNL-establishment. Thus, there is no specific pleading with respect to the working of 240 days in preceding year of the alleged termination. In the affidavits filed by these workmen, it is alleged in general that they have served 240 days in the BSNL-establishment. Thus, this is a general assertion for rendering services with the management rather specific averments with respect to the 240 days in the preceding year before the termination. Thus, claim petitions as well as affidavits filed by the workmen are not very specific with respect to 240 days working in the establishment. Apart from this in claim petitions, cause of action is alleged to be non-regularisation and non-payment of minimum wages prescribed by the Government resulting the termination/retrenchment. But this fact is not stated in the affidavits of the workmen where in Para 3 it is alleged that these workmen opposed the Thekedar system and manipulation in the documents resulting their retrenchment from service by the BSNL. In the light of the specific denial by the management for rendering 240 days service before alleged termination, burden lies on the workmen to prove this fact. Hon'ble Supreme Court in the case of Range Forest Officer Vs. S.T. Hadimani, (2002)3 SCC 25, has held that if there is no proof of receipt of salary or wages of 240 days or order or record in this regard was produced then mere non-production of the muster roll for a particular period is not sufficient for the Labour Court to hold that workmen had worked for 240 days as claimed. Thus, as per the Hon'ble Supreme Court in order to prove the working of 240 days, receipt of salary or wages as the case may be are relevant for the consideration by the Tribunal. Learned AR of the workmen contended that all these documents are with the management and they have not submitted before this Tribunal. Learned counsel of the management contended that this is a case of specific denial by the management as such, question of submission of any document pertaining to the payment of wages or salary or attendance register or muster roll etc. does not arise to be submitted by the management. Learned AR of the workmen contended in the light of the judgment of the Hon'ble Supreme Court in the case of M/s Bharat Heavy Electricals Ltd. Vs. State of U.P. and others, Civil Appeal No.2459-61 of 1999 decided on 21.07.2003 that adverse inference should be drawn against the management for the non-production of the documents. Learned counsel of management relying in the case of Municipal Corporation, Faridabad Vs. Siri Niwas(supra), argued that presumption as to adverse inference for non-production of evidence is always optional rather obligatory as is alleged by the AR of the workmen. The Hon'ble Supreme Court in the case of Municipal Corporation, Faridabad Vs. Siri Niwas(supra), has held that provisions of the Indian Evidence Act per se are not applicable in an industrial adjudication the general principle provides are however applicable. It is also in pray for the Industrial Tribunal to see that principal of natural justice are complied with the burden of proof is on the claimant/workman to show that they had worked for 240 days in preceding 12 months prior to their alleged retrenchment/termination in terms of Section 25 of the Industrial Disputes Act, an order retrenching a workman could not be effective unless the condition precedent therefore satisfied. From the perusal of the file, it appears that the workmen has not adduced any evidence whatsoever in support of their contention that they have completed 240 days continuously before alleged termination/retrenchment and complied with the requirement of Section 25-B of the Industrial Disputes Act, 1947.

18. Learned counsel of the management Sh. D.R. Sharma has drawn my attention towards the photocopy of the petition moved by these workmen and attached with the file with respect of the payment of Minimum Wages Act and contracts entered into between the management as well as contractors M/s A.K Gupta which is on record. As per the learned counsel of the management during the alleged termination/retrenchment an agreement was in force between BSNL-establishment as well as M/s Ashok Gupta from 10.06.2013 to

09.12.2014 which is admitted facts from the petitions filed by the workmen under Minimum Wages Act attached with the file. Learned counsel further argued that in the light of the admission of the workmen even in their own pleading, this contract cannot be deemed to be camouflage or manipulated. It is pertinent to mention that agreement was executed on 11.06.2013 while alleged termination/retrenchment took place on 10.11.2013, meaning thereby these workmen were rendering their services under contractor A.K. Gupta since 5 months prior to the alleged termination. The documents filed by the management with respect to the payment, attendance, PF dues relates to the contractor A.K. Gupta. In these circumstances, it is not possible to observe that it was the BSNL-establishment who allegedly retrenched/terminated the services of the workmen from 11.06.2013 on the basis of the demand mentioned in the claim petitions.

19. The Hon'ble Supreme Court in the case of Range Forest Officer Vs. S.T. Hadimani(supra), has held as follow:-

*“In our opinion, the Tribunal was not right in placing the onus on the management without first determining on the basis of cogent evidence that the respondent had worked for more than 240 days in the year preceding his termination. It was the case of the claimant that he had so worked but his claim was so denied by the appellant. It was then for the claimant to lead evidence to show that he had in fact worked for 240 days in the year preceding his termination. Filing of an affidavit is only his own statement in his favour and that cannot be regarded as sufficient evidence for any court or tribunal to come to the conclusion that a workman had, in fact, worked for 240 days in a year. No proof of receipt of salary or wages for 240 days or order or record of appointment or engagement for his period was produced by the workman. On this ground alone, the award is liable to be set aside.”*

20. There is another aspect of the case, undisputedly workmen has formed a “Thekedaar Worker Union” having its registration no.1963. The question which arises for consideration is that if these workmen were rendering their services under the direct control and supervision of the BSNL-establishment and payment is made by the establishment directly to the workmen as is alleged then question of formulation of “BSNL Thekedaar Workers Union” does not arise at all. On query that learned AR of the workmen could not give satisfactory reply with respect to the nomenclature of the Union which abundantly makes it clear that workmen were working under the “Thekedaar Workers Union” forcing them to name it as BSNL-Thekedaar Workers Union, Haryana.

21. The statement given by the workmen Rajinder Kumar in ID No.100/2014, Ved Parkash in ID No.44/2014, Madan Babu in ID No.55/2014, Pawan Pandey in ID No.45/2014, Suresh Chander in ID No.42/2014, Rakesh Kumar in ID No.57/2014, Narender Kumar in ID No.101/2014 and Rajbir Singh in ID No.43/2014, reveals that they are still rendering their services with the BSNL-management but there is nothing stated in their respective affidavits that how they are rendering their services with BSNL-management. Contrary to this, reference is related with the termination of these workmen from 10.11.2013. This anomaly could not be addressed by the learned AR of the workmen during the course of arguments.

22. Undoubtedly, workmen has alleged in their claim petition that management has violated the provisions of Section 25-G and 25-H of the ID Act, 1947 but nothing is placed on record as evidence to substantiate engagement of other workers after the alleged termination as such, it does not require to be considered in detail. Furthermore, the relationship of employer and employee and master and servant between the parties could not be proved satisfactorily hence retrenchment by the BSNL-establishment and violation of Section 25-F, 25-G and 25-H have become meaningless in the absence of any cogent evidence.

23. Conclusively, it may be observed that these workmen were rendering their services under the contractor from the year 2009-10 as the case may be as is admitted by the witnesses of the management namely Smt. Paramjeet Kaur and Balbir Singh but management has not submitted any agreement of the contractors entered into except the agreement of A.K. Gupta for the year 2013-14. Legally initial burden lies with the workmen to prove that they were working under the BSNL-establishment from the date of their joining as alleged in claim petitions till their alleged termination/retrenchment without complying the provisions of ID Act which they have failed to prove on the basis of cogent evidence. Hence, in my considered opinion, it is not possible to hold that they were illegally and in unfair manner have been terminated by BSNL-management from 10.11.2013. As such, these workmen are not liable for any relief from this Tribunal and the references are answered accordingly.

24. Let copy of the award be sent to the Central Government for publication of the same as required under Section 17(2) of the Act.

25. Copy of the award be kept in ID No.38/2014 titled as Rajesh Kumar Vs. BSNL., ID No.39/2014 titled as Shankar Lal Vs. BSNL, ID No.41/2014 titled as Dharambir Vs. BSNL, ID No.42/2014 titled as Suresh Chander Vs. BSNL, ID No.43/2014 titled as Rajbir Singh Vs. BSNL, ID No.44/2014 titled as Ved Parkash Vs. BSNL, ID No.45/2014 titled as Pawan Pandey Vs. BSNL, ID No.54/2014 titled as Ramesh Kumar Vs. BSNL, ID No.55/2014 titled as Madan Babu Vs. BSNL, ID No.56/2014 titled as Suraj Mal Vs. BSNL, ID No.57/2014



titled as Rakesh Kumar Vs. BSNL, ID No.58/2014 titled as Prithi Raj Vs. BSNL, ID No.59/2014 titled as Ram Chander Vs. BSNL, ID No.60/2014 titled as Sube Singh Vs. BSNL, ID No.61/2014 titled Dharam Pal Vs. BSNL, ID No.62/2014 titled Ravinder Kumar Vs. BSNL, ID No.63/2014 titled Surjeet Singh Vs. BSNL, ID No.64/2014 titled Balwant Singh Vs. BSNL, ID No.85/2014 titled Vikas Vs. BSNL, ID No.86/2014 titled Pardeep Kumar Vs. BSNL, ID No.87/2014 titled Bansilal Vs. BSNL, ID No.88/2014 titled Sunil Kumar Vs. BSNL, ID No.89/2014 titled Bhagwan Dass Vs. BSNL, ID No.90/2014 titled Ram Swarth Vs. BSNL, ID No.91/2014 titled Moman Singh Vs. BSNL, ID No.92/2014 titled Satyawar Vs. BSNL, ID No.97/2014 titled Mukesh Kumar Vs. BSNL, ID No. 98/2014 titled Harpal Singh Vs. BSNL, ID No.99/2014 titled Suraj Bhan Vs. BSNL, ID No.100/2014 titled Rajinder Kumar Vs. BSNL, ID No.101/2014 titled Narender Kumar Vs. BSNL, ID No.107/2014 titled Satbir Singh Vs. BSNL, ID No.108/2014 titled as Harpal Singh Vs. BSNL and ID No.109/2014 titled as Sanjeev Kumar Vs. BSNL.

A. K. SINGH, Presiding Officer

नई दिल्ली, 20 जुलाई, 2021

**का.आ. 483.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय राष्ट्रीय फिल्म विकास निगम लिमिटेड, मुंबई (महाराष्ट्र) के प्रबंधन के संबद्ध नियोजकों और राष्ट्रीय फिल्म विकास निगम कर्मचारी संगठन, के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, संख्या -I मुंबई के पंचाट (संदर्भ संख्या 01/06 of 2020) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है।

[सं. एल-42011/33/2020- आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 20th July, 2021

**S.O. 483**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No 01/06 of 2020) of the Central Government Industrial Tribunal cum Labour Court No- I, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to National Film Development Corporation Ltd., Mumbai (Maharashtra) and The General Secretary National Film Development Corporation Employees 'Union.

[No. L- 42011/33/2020-IR (DU)]

D. K. HIMANSHU, Under Secy.

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 MUMBAI

**Present :** JUSTICE RAVINDRANATH KAKKAR, Presiding Officer

#### REFERENCE NO. CGIT-1/06 OF 2020

#### Parties:

Employers in relation to the management of National Film Development Corporation Ltd.

**AND**

**Their workmen**

#### Appearances:

For the first party No.1/ Management : Mr.R. Harish, Legal Officer.

For the second party / Union : Mr. Sandesh Malp General Secretary

State : Maharashtra

Mumbai, dated the 15th day of January, 2021

**AWARD**

1. The present reference has been made by the Central Government by its order dated 21.7.2020 passed in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947. The terms of reference as per the schedule to the said order are as under:

*“Whether the demand of National Film Development Corporation Karmachari sanghatan vide letter dated 22.05.2019 for Time Bound Promotion as per the Service Rules and Regulations 1982 with amendments of the Corporation from the date of completion of 10 years of service by an employee, is proper, legal and justified? If so, what relief these workers are entitled to? What other directions, if any, are necessary in the matter?”*

Pursuant to the order dated 21.8.2020, notices were issued to the parties by Registered Post AD fixing 04.12.2020.

2. On 04.12.2014, despite service of notice, none was present on behalf of the first party/Management. Shri Sandesh Malp, General Secretary was present on behalf of the second party Union. The case was accordingly adjourned to 12.1.2021 filing Statement of Claim.

3. On 12.1.2021, Mr. R. Harish, Legal Officer of the first party management was present but none was present on behalf of the second party Union.

4. Pursuant to the order dated 12.1.2021 the case was put up on 14.1.2021 and both parties were present.

5. Mr. R. Harish, Legal Officer for the first party management filed a Settlement Agreement dated 30.12.2020 and stated that they had resolved the issues raised by NFDC employees union. Further, both the parties stated that in view of the Settlement dated 30.12.2020 arrived at between the parties, the dispute forming the subject-matter of the Reference no longer survives.

6. In view of the statements made by both the parties before this Tribunal, it is evident that the dispute which was referred to this Tribunal in the above Reference no longer survives.

7. In view of the above, the Reference is answered by stating that the dispute forming the subject-matter of the Reference no longer survives.

8. Award is passed accordingly.

JUSTICE RAVINDRA NATH KAKKAR, Presiding Officer

नई दिल्ली, 20 जुलाई, 2021

**का.आ. 484.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलोर के पंचाट (संदर्भ संख्या 02/2007) को प्रकाशित करती है।

[सं. एल-12012/99/2006-आई आर (बी-1)]

डी. गुहा, अवर सचिव

New Delhi, the 20th July, 2021

**S.O. 484.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 02/2007) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Bangalore as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12012/99/2006-IR(B-1)]

D. GUHA, Under Secy.

**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
BANGALORE**DATED : 03<sup>RD</sup> MARCH 2020**PRESENT** : JUSTICE SMT.RATNAKALA, Presiding Officer**CR 02/2007****I Party**

Sh. B.R. Balaji,  
S/o Sh. B. Venugopal Raj  
Since deceased by LRs

- (a) Smt. Bhagyalakshmi,  
W/o Late B.R. Balaji  
(b) Ms. Bhavani Raj,  
D/o Late B.R. Balaji

- (c) Sh. Suman Ganesh Rao,  
S/o Late B.R. Balaji

All are residing at,  
No. 498/B, Sri Kanipakam Krupa,  
6<sup>th</sup> Main, Kuvempu Nagar,  
Vijjinapura,  
Bengaluru - 560 016.

**II Party**

The Chairman & Managing Director,  
State Bank of India,  
New Administrative Complex,  
Post Box No. 34,  
Poojapuram,  
Trivandrum - 695 012.

**Appearance**

Advocate for I Party : Mr. B. D. Kuttapa

Advocate for II Party : Mr. Ramesh Upadhyaya

**AWARD**

The Central Government vide Order No. L-12012/99/2006-IR(B-I) dated 15.12.2006 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute Act, 1947 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

**“Whether the action of the management of State Bank of Travancore in imposing the punishment of discharge from the services on Sh. B.R. Balaji, Duftery-cum-Cash Peon, Service Branch, State Bank of Travancore, Bangalore w.e.f. 12.11.2004 is legal and justified? If not, to what relief the workman is entitled and from which date?”**

1. The present Industrial Dispute is raised by the Ex-employee of the 2<sup>nd</sup> Party Bank / erstwhile State Bank of Travancore presently State Bank of India, challenging the punishment of discharge from service w.e.f. 12.11.2004 imposed on him as a measure of Disciplinary Action. During the pendency of the proceeding the workman expired, his class-I Legal heirs are brought on record in his place.

The deceased in his claim statement alleged that, he was falsely Charge Sheeted, deprived opportunity during the enquiry; subsistence allowance was not paid during the enquiry, the Enquiry Officer was biased; his finding is totally perverse and the punishment order passed by the Disciplinary Authority and the Appellate Authority was totally mechanical

without considering his case; the entire action taken against him was illegal. After his termination he is unemployed etc.

2. The 2<sup>nd</sup> Party in their counter statement refuted the claim statement allegation and justified the action taken by them against the workman as valid and legal.

3. The Preliminary Issue was raised in respect of the validity of the Domestic Enquiry went against the Management, thereafter the 2<sup>nd</sup> Party adduced evidence by examining five witnesses. By the time the matter reached the stage of rebuttal evidence, the workman expired and his legal heirs came on record.

4. After the Domestic Enquiry was set aside, on the application filed by the 1<sup>st</sup> Party workman seeking maintenance and after recording evidence in respect of the said prayer, he was ordered interim maintenance at the rate of his salary paid for the month of August 2003 after necessary deduction (he was suspended pending enquiry vide memo dated 11.09.2003)

5. The allegation against the workman in the charge sheet dated 14.11.2003 was to the effect that,

He introduced a Gold Loan 99021 for Rs. 54,000/- and the amount was disbursed in favour of Sh. B S Raghava Raju on 26.12.2002; the ornaments were not appraised on the day of disbursement but on the subsequent dates they found spurious and the borrower did not repay the amount.

He introduced one Savings Bank Account No. 6855 in the name of Sh. N Rangaswamy and or Smt. Sulochana with either or survivor clause and the same was opened on 17.04.2003. On 16.05.2003 Sh. N Rangaswamy deposited a cheque for Rs. 1,16,980/- and the CSE did the needful like filling up the challan etc., and told that it takes 2 days to get the amount collected. The depositor entrusted him with a blank withdrawal slip duly signed to withdraw a sum of Rs. 5,000/-; at 4 pm at the request of the CSE the Head Cashier disbursed Rs. 5,000/- to the depositor. CSE arranged to withdrawal of Rs. 60,000/- from the account of Sh. Rangaswamy by utilising blank signed withdrawal slip filled up by himself.

On 19.05.2003 Smt. Sulochana sent a withdrawal from and the CSE gave Rs. 6,000/- to her son who had brought the withdrawal slip, though he had filled up the withdrawal slip for Rs. 50,000/- and managed to withdraw the amount from SB Account 6855 for his use.

The depositors lodged a complaint to Ramoorthy Nagar Police Station, the Police took him to the Police Station and conducted enquiry, he arranged repayment of the amount misappropriated by paying Rs. 60,000/- in cash at 10.30 pm on 31.05.2003 along with a cheque dated 15.06.2003 for Rs. 40,000/-.

He is in the habit of issuing cheques to various parties without keeping sufficient balance in his account.

6. The first witness examined to corroborate to the charge sheet allegation was the then Manager (Nodal Officer and C&I) during the relevant period. In his affidavit evidence he has stated about the oral complaint received on 30.05.2003 from the Joint Account Holders. The then Chief Manager Sh. Laxmi Narayanan instructed him and the Manager (P&SB) to enquire with the Accountholders to ascertain about the complaint. When both of them went in search of the Accountholders in the address available in the Account Opening Form, they had already vacated the House. However, the witness met them in their new place, on enquiry he was informed by the Accountholders that they have received the money from the CSE on the next day of the Complaint i.e. on 31.05.2003. With regard to the borrower in the Gold Loan A/c No. 99021, he did not claim the pledged ornaments even after closure of the loan; despite effort they could not trace him.

The then Deputy Manager (Accounts) of the Branch was the second witness who was the then Sanctioning Authority of the Gold Loan. His affidavit evidence is to the effect that the CSE introduced Mr. Raghava Raju for the purpose of Gold loan to the extent of Rs. 54,000/-, the Appraiser was not available on that date, on the assurance given by the Head Cashier Sh. Ravikumar he sanctioned the loan, opened the loan account and kept the gold items in joint custody; on 17.06.2003 when the Gold Ornament was verified by the Bank approved Gold Appraiser, they found that the Gold Ornaments were fake.

The third witness was another Deputy Manager (Accounts) corroborated the statements of the previous witness / Deputy Manager (Accounts). She has also stated about the CSE introducing SB Account No. 6855 in the name of Mr. Rangaswamy and Smt. Sulochana etc., and corroborated the charge sheet allegations. She identified Ex M-11 the voucher signed by her as a Deputy Manager, the withdrawal slip given by the Customer as Ex M-19.

The fourth witness was the Manager Concurrent Audit during 2002-2004 at Bangalore City Branch. He had visited the Branch for a detailed investigation of various incidents of serious irregularities reported in the concerned Bank and thus came to know about the two irregular incidents which are the subject matter of the Charge Sheet. In his affidavit evidence he has detailed the investigation carried out by him in this regard.

The fifth witness was the Chief Manager and his evidence is in tune with the other official witnesses.

7. Since, the Domestic Enquiry held against the 1<sup>st</sup> Party workman is set aside, the eventuality is, the punishment order imposed on the workman on the foundation of the Enquiry Report is a non-est order and the deceased workman shall be treated as on duty from the date of his discharge from service till the date of his superannuation. Though there is incriminating evidence on record against the workman placed by the Management, since the workman expired even before he could adduce rebuttal evidence, finding on the charges cannot be recorded.

8. The wife of the deceased workman has stated that, after his discharge from service from 12.11.2004 her husband was not employed anywhere.

9. In view of the said position, the 2<sup>nd</sup> Party is liable to pay 100% back wages to the Class-I legal heirs of the deceased workman Sh. B.R. Balaji from 12.11.2004 to 04.10.2015 along with terminal benefits.

### **AWARD**

**The reference is accepted.**

The punishment of discharge from service imposed by the 2<sup>nd</sup> Party Management State Bank of Travancore on Sh. B.R Balaji, Duftery cum Cash Peon w.e.f 12.11.2004 is not legal and not justified.

The 2<sup>nd</sup> Party is directed to release 100% of the back wages that the workman would have earned from 12.11.2004 till his superannuation on 04.10.2015 along with terminal benefits, in favour of his Wife Smt. Bhagyalakshmi at 50% and Daughter Ms. Bhavani Raj at 25% and Son Suman Ganesh Rao at 25%. The 25% payable to Suman Ganesh Rao shall be invested in Fixed Deposit till he attains majority with liberty to Smt. Bhagyalakshmi to draw interest periodically and use the same for the welfare of Suman Ganesh Rao.

(Dictated to o/s Steno, transcribed by her, corrected and signed by me on 03<sup>rd</sup> March, 2020)

JUSTICE SMT. RATNAKALA, Presiding Officer

नई दिल्ली, 20 जुलाई, 2021

**का.आ. 485.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स भारतीय खाद्य निगम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. — 1, धनबाद के पंचाट (संदर्भ संख्या 15/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1.07.2021 को प्राप्त हुआ था।

[सं. एल-22012/35/2003-आईआर (सीएम-2)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 20th July, 2021

**S.O. 485.**—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No.15 of 2004) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Food Corporation of India and their workmen, which was received by the Central Government on 15.07.2021.

[No. L-22012/35/2003-IR (CM-II)]

RAJENDER SINGH, Under Secy.

### **ANNEXURE**

#### **BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD**

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947

#### **Reference: No. 15/2004**

Employer in relation to the management of Food Corporation of India, Patna

**AND**

**Their workman**

**Present:** Shri Dinesh Kumar Singh, Presiding Officer.

#### **Appearances:**

For the Employers : Sri B.K. Pathak, Advocate

For the workman. : None.

State : Jharkhand.

Industry:- Food

Dated 28.05.2021

**AWARD**

By Order No.L-22012/35/2003 (IR(CM-II)) dated 30/12/2003 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

**SCHEDULE**

**“Whether the action of the management of Food Corporation of India in terminating the services of Sri Rajgir Ram, casual labour engaged in FSD, Bhagwanpur in the quality control Section w.e.f 31.7.1999 is legal and justified? If not, to what relief he is entitled?”**

2. After receipt of the reference, both parties were noticed and both parties appeared for certain dates, but subsequently workman/union left appearing before this Tribunal. Thereafter again regd. notice was issued to workman/union and notice returned with endorsement of “Not Met”. Now the Case is pending since 04/02/2004 and workman/union is not appearing before Tribunal. so, it is felt that workman/union has lost its interest in this matter. Hence No Dispute Award is passed. Communicate.

D. K. SINGH, Presiding Officer

नई दिल्ली, 20 जुलाई, 2021

**का.आ. 486.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स डब्ल्यू.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह - श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 20/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15.07.2021 को प्राप्त हुआ था।

[सं. एल-22012/88/2010-आईआर (सीएम-2)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 20th July, 2021

**S.O. 486**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 20/2011) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the Management of M/s. W.C.L and their workmen, received by the Central Government on 15.07.2021.

[No. L-22012/88/2010-IR (CM-II)]

RAJENDER SINGH, Under Secy.

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
JABALPUR**

**NO. CGIT/LC/R/20/2011**

**Present** : P. K. Srivastava, H.J.S..( Retd)

Shri Bharat Singh  
General Secretary  
Sanuket Coyla Mazdoor Sang  
(ATAC Eklhar)  
Chhindwara (M.P.)

**Versus**

The Chief Manager,  
WCL Pach Area,  
Chhindwara (M.P.)

... Workman

...Management

**AWARD**  
(Passed on this 5<sup>th</sup> day of April-2021)

As per letter dated 28/3/2011 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-22012/88/2010-IR(CM-II) The dispute under reference relates to:

***“Whether the action of the Management in not providing compassionate appointment as per the provision of NCWA to the dependent Shri Kisun, S/o late Shyambali, Ex-Tub Loader, Gajandoh Colliery is just and proper?if not, to what relief Shri Kisun is entitled to? .”***

1. After registering the case on the basis of reference, notices were sent to the parties. Both the parties have filed their respective claim/defence.
2. The case of the applicant/workman is that his father late Shyambali who was working as tub-loader in at Gajandoh Colliery expired on 21-5-1998. The applicant had filed an application for compassionate appointment on 25-9-2000 through his mother. He again filed an application on 11-1-2004 with the same prayer. The Management had required the applicant to submit some information desired by Management vide its letter dated 21-7-2009. The required information was sent by the applicant vide his letter dated 4-11-2009, inspite of these application and verification done at the level of Management, no appointment on compassionate basis was offered to the applicant. Accordingly the applicant has prayed that the reference be answered in his favour and he be held entitled to compassionate appointment in the light of National Coal Wage Agreement (NCWA).
3. The case of the Management in its written statement is that after the death of workman the applicant submitted an application dated 29-10-2007 for his appointment on compassionate basis as son of the deceased. This application was not supported with documents namely, death certificate, concerned no-objection from remaining dependents, proof of claimant being legal heir of deceased workman for which he was issued several letters on 21-7-2009, 3-9-2009, 3-3-2009, 15-4-2008 and 25-12-2007 but no information was submitted by the applicant, hence he was refused appointment on compassionate basis as prayed by him. It was the applicant who failed to fulfill the required formalities and there is no fault on the part of the Management in this respect. In the light of these circumstances, the Management is not justified in not considering his claim for appointment on compassionate basis as dependent heir of the late deceased workman Shyambali. Accordingly the management has prayed that the reference be answered against the workman.
4. The workman has filed documents, application dated 25-9-2000, 11-1-2004, reply of Management dated 21-7-2009, application dated 4-11-2009, Exhibits W-1, W-2, W-3 and W-4 respectively and has proved these documents. The workman has examined himself on oath and has been cross-examined. The Management has cross-examined its witness Y.Sheshidhar and has proved Exhibit M-1 which is copy of Rule No. 9.3.0 to 9.5.0 of NCWA. Needless to mention here that judicial notice of law and regulations, circulars will be taken by this Tribunal, even if it is not proved.
5. I have heard arguments of both the sides and have perused the record. The relevant rules for compassionate appointment are prescribed in Rule 9.3.0 to 9.5.0 which are being reproduced as follows:-

**Provision of Employment/payment of monthly monetary compensation to Dependent:**

- (i) The Clauses 9.3.0, 9.4.0 & 9.5.0 of NCWA-VI will be operative in NCWA-IX till a revised scheme is jointly prepared keeping in view the various verdict of Hon'ble Supreme Court at the earliest.
- (ii) A Sub-committee of JBCCI will formulate a scheme keeping in view various directives of Supreme Court on the subject within three months of signing of the Agreement.
- (iii) Meanwhile provision of employment as mentioned at (i) above, shall be on basis wage of Cat-I as trainee for a period of 6 months. During the training period they will have the status of permanent employee. On completion of training they shall be regularized as Cat-1 employee. However, those dependents in possession of Technical/Professional qualification in BE/Diploma will be considered for appointment in higher category, keeping in view their qualification, suitability and vacancy.
- (iv) The monthly monetary compensation payable to the female dependent in case of death either in mine accident or for other reasons or medical unfitness of the employee shall be @ Rs.6000/- with effect from 1-5-2008.
- (v) In case of death either in mine accident or due to other reasons or medical unfitness, if no employment has been offered and the male dependent of the concerned worker is 12 years and above in age, he will be kept on a live roster and would be provided employment commensurate with his skill and qualifications when he attains the age of 18 years. During the period the male dependent is on live roster, the female dependent will be paid monetary compensation as given in (iv) above.

6. The Management witness has admitted in his cross-examination that there is no time limit for compassionate appointment. Also it has been provided in the Rules that heirs and successors of the deceased workman will be granted either family benefit or compassionate appointment. It is not disputed that in the case in hand, the applicant and his family did get none of the benefits. Hence in such a situation when the applicant has opted for compassionate appointment of one heir of deceased workman, his case requires to be considered as per Rules. Refusal to consider his case will be unjustified in law, in the light of National Coal Wage Agreement and the applicant is entitled to be considered for appointment on compassionate basis as heir and successor of deceased workman Shyambali in the provisions of NCWA.

7. On the basis of the above discussion, following award is passed:-

- A. The action of the management in non-appointment of applicant on compassionate basis as heir and successor of deceased workman Shyambali is unjustified in law in the light of National Coal Wage Agreement (NCWA).
- B. The claim of the applicant is entitled to be considered for compassionate appointment being heir and successor of deceased workman as per NCWA, subject to necessary formalities, the whole process is to be completed within 60 days from receipt of copy of Award by Management after publication
- C. In the facts and circumstances of case peculiar to the case in hand, the applicant is also entitled to cost of litigation Rs.10,000/- within 30 days from receipt of copy of Award by Management after publication.
8. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 20 जुलाई, 2021

का.आ. 487.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स डब्ल्यू.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह-श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 26/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15.07.2021 को प्राप्त हुआ था।

[सं. एल-22012/92/2010-आईआर (सीएम-2)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 20th July, 2021

**S.O. 487.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 26/2011) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the Management of M/s. W.C.L. and their workmen, received by the Central Government on 15.07.2021.

[No. L-22012/92/2010-IR (CM-II)]

RAJENDER SINGH, Under Secy.

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

**NO. CGIT/LC/R/26/2011**

**Present:** P. K. Srivastava, H.J.S..(Retd)

Shri Bharat Singh  
General Secretary  
Sanuket Coyla Mazdoor Sang  
(ATAC Eklhar)  
Chhindwara (M.P.)

**Versus**

The Chief Manager,  
WCL Pach Area,  
Praceya District,  
Chhindwara (M.P.)

... Workman

... Management



**AWARD****(Passed on this 5th day of April-2021)**

1. As per letter dated 5/4/2011 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-22012/92/2010-IR(CM-II). The dispute under reference relates to:

*“Whether the action of the General Manager, WCL Pench Area in not granting monetary compensation to Smt. Fagia Bai, widow of Later Kishanlal, Ex-Dresser is legal and justified? to what relief the claimant is entitled to ? .”*

2. After registering the case on the basis of reference, notices were sent to the parties. Both the parties have filed their respective claim/defence.

3. The case of the workman as stated in his statement of claim is that his father late Kishan Lal, was working as Dresser in Ganpati Mines under Newto Eklehra Sub Area who expired on 25-8-2001. The wife of the deceased Fagia Bai on 30-5-2009 had had made a plain application for compassionate appointment. Later on the son of deceased Dipak made a plain application dated 16-6-2009 for compassionate appointment and further vide application dated 11-7-2009 for monetary compensation. The Management vide its letters dated 3-4-09, 13-4-09, 14-5-09, 31-7-09, 2-9-09 and 5-10-09 Exhibits M2(a) to N2(b) had informed the wife of the deceased that no application has been received from her for employment/monetary compensation as required under rules to be accompanied with relevant documents supporting her claim. It is the case of the applicant/workman that application was duly made to the concerned authorities for compassionate appointment/Monetary compensation but no monetary compensation was awarded to the applicant by the Management. Accordingly the applicant has prayed that the reference be answered in his favour and he be held entitled to monetary compensation in the light of National Coal Wage Agreement (NCWA).

4. The case of the Management in its written statement is that after death of workman the management vide its letter dated 5-10-2009 had informed the dependents of the deceased that they had not applied for employment/monetary compensation. The death of the deceased had taken place on 25-8-2001 and it was only after a lapse of more than eight years that the dependent of deceased had made an application to the Management for monetary compensation and that too without being accompanied by relevant documents such as death certificate, proof of legal heir etc. The competent Authority found that it was not a fit case to provide monetary compensation due to inordinate delay as the claim has to be sought within a reasonable time and the claim of the applicant/workman was rejected vide its letter No.WCL/IR/MP/23/756/1437 dated 31-8-2010 and letter No.WCL/Pench/P/67/3131/10 dated 4-9-2010(Exhibit M-8 and M-9). Accordingly the management has prayed that the reference be answered against the workman.

5. The workman has filed documents, application dated 22-4-2004, 20-5-2009, 16-6-2009 and 11-7-2009 for providing monetary compensation where as the Management has filed applications dated 3-4-09, 13-4-09, 14-5-09, 31-7-09, 2-9-09 and 5-10-09 Exhibits M2(a) to M2(f) respectively and proved these documents. The workman has examined himself on oath and has been cross-examined. The Management has cross-examined its witness M.B.Kumbhare. Needless to mention here that judicial notice of law and regulations, circulars will be taken by this Tribunal, even if it is not proved.

6. I have heard arguments of both the sides and have perused the record. The relevant rules for compassionate appointment are prescribed in Rule 9.3.0 to 9.5.0 which are being reproduced as follows:-

**Provision of Employment/payment of monthly monetary compensation to Dependent:**

- (i) The Clauses 9.3.0, 9.4.0 & 9.5.0 of NCWA-VI will be operative in NCWA-IX till a revised scheme is jointly prepared keeping in view the various verdict of Hon'ble Supreme Court at the earliest.
- (ii) A Sub-committee of JBCCI will formulate a scheme keeping in view various directives of Supreme Court on the subject within three months of signing of the Agreement.
- (iii) Meanwhile provision of employment as mentioned at (i) above, shall be on basis wage of Cat-I as trainee for a period of 6 months. During the training period they will have the status of permanent employee. On completion of training they shall be regularized as Cat-1 employee. However, those dependents in possession of Technical/Professional qualification in BE/Diploma will be considered for appointment in higher category, keeping in view their qualification, suitability and vacancy.
- (iv) The monthly monetary compensation payable to the female dependent in case of death either in mine accident or for other reasons or medical unfitness of the employee shall be @ Rs.6000/- with effect from 1-5-2008.

- (v) In case of death either in mine accident or due to other reasons or medical unfitness, if no employment has been offered and the male dependent of the concerned worker is 12 years and above in age, he will be kept on a live roster and would be provided employment commensurate with his skill and qualifications when he attains the age of 18 years. During the period the male dependent is on live roster, the female dependent will be paid monetary compensation as given in (iv) above.

7. The Management witness has admitted in his cross-examination that there is no time limit for compassionate appointment/monetary compensation. Also it has been provided in the Rules that heirs and successors of the deceased workman will be granted either family benefit or compassionate appointment. It is not disputed that in the case in hand, the applicant and his family did get none of the benefits. Hence in such a situation when the applicant has opted for monetary compensation, their case requires to be considered as per Rules. Refusal to consider their case will be unjustified in law, in the light of National Coal Wage Agreement and the applicant/workman is entitled to be considered for grant of monetary compensation being legal heir and successor of deceased workman late Kishanlal in the provisions of NCWA.

8. On the basis of the above discussion, following award is passed:-

- A. The action of the management in not granting monetary compensation to Smt. Fagia Bai, widow of Late Kishanlal, Ex-Dresser is held to be unjustified in the light of National coal Wage Agreement (NCWA).**
- B. The claim of the applicant is entitled to be considered for monetary compensation being legal heir and successor of deceased workman as per NCWA, subject to necessary formalities, the whole process is to be completed within 60 days from receipt of copy of Award by Management after publication, failing which interest at bank rate.**
- C. In the facts and circumstances of case peculiar to the case in hand, the applicant is also entitled to cost of litigation Rs.10,000/- within 30 days from receipt of copy of Award by Management after publication.**

9. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 20 जुलाई, 2021

**का.आ. 488.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स बी. बी. एम. बी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नंबर-1 चंडीगढ़ के पंचाट (संदर्भ संख्या 37/2020) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15.07.2021 को प्राप्त हुआ था।

[सं. एल-22013/01/2021-आईआर (सीएम-2)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 20th July, 2021

**S.O. 488.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 37/2020) of the Cent.Govt.Indus.Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure, in the industrial dispute between the Management of M/s. B.B.M.B. and their workmen, received by the Central Government on 15.07.2021.

[No. L-22013/01/2021-IR (CM-II)]

RAJENDER SINGH, Under Secy.

**ANNEXURE****IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II,  
CHANDIGARH****Present:** Sh. A. K. Singh, Presiding Officer**ID No. 37/2020****Registered on:-24.08.2020**Jagdish Chand S/o Naraing Dass, Village Beg, Post Office Pounta,  
Tehsil Sarkaghat, Distt. Mandi, Himachal Pradesh.

...Workman

**Versus**1. The Chairman, Bhakra Beas Management Board, Madhya Marg,  
Sector 19-B, Chandigarh.2. The Chief Engineer, Bhakra Beas Management Board,  
BSL Project, Sunder Nagar, Himachal Pradesh.

...Respondents/Managements

**AWARD****Passed on:-22.12.2020**

Central Government vide Notification No.ID-(14)2019/B/IV/CHD. Dated 11.08.2020, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

**“Whether the action of management of Bhakra Beas Management Board in retrenching the services of sh. Jagdish Chand is illegal and unjustified. If so, to what relief he is entitled to?”**

1. On the receipt of the above reference, notice was sent to the workman as well as the managements/respondents. The postal article sent to the workman, referred above, is duly delivered to the workman. The workman appeared and stated that the reference regarding his termination/retrenchment from the management of BBMB is also pending before CGIT-I, Chandigarh, as ID No.65/2019 titled as Jagdish Chand Vs. BBMB, in which he has already filed the claim statement. Now he wants to withdraw the present reference as the same matter for the same schedule is pending before CGIT-I and he has given his statement to withdraw the present reference which is recorded separately and kept on file.

2. In view of the statement made by the workman, the present reference is dismissed as withdrawn. File after completion be consigned in the record room.

3. Let copy of the award be sent to the Central Government for publication of the Award as required under Section 17(2) of the Act.

A.K. SINGH, Presiding Officer

नई दिल्ली, 20 जुलाई, 2021

**का.आ. 489.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स भारतीय खाद्य निगम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-1, धनबाद के पंचाट (संदर्भ संख्या 03/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15.07.2021 को प्राप्त हुआ था।

[सं. एल-22013/01/2021-आईआर (सीएम-2)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 20th July, 2021

**S.O. 489.**—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court No.1, Dhanbad (Ref. No. 03 of 2016) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Food Corporation of India and their workmen, which was received by the Central Government on 15.07.2021.

[No. L-22013/01/2021-IR (CM-II)]

RAJENDER SINGH, Under Secy.

**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD****ID Case No. 03/2016**

Sri Keshav Prasad, Ex-AG I (D)

Sri Kapildeo Paswan, Ex- AG II (D)

Sri Mahendra Prasad Singh, Ex- AG II (D)

... Applicants

**Vs.**

General Manager

Food Corporation of India 6<sup>th</sup> Royd Street,  
Kolkata. 700016

... Opposite Parties

**Present:** Shri Dinesh Kumar Singh Presiding Officer.**Appearances:**

For Employer : Sri V. Kumar, Representative.

For workman : Sri Gopal Chandra Majumdar, Manager (Vigilance).

**State :** Jharkhand.**Industry:-** Food

Dated 31.03.2021

**AWARD**

1. The Authorised Representative of FCIEU has filed its written statement of claim on 03/06/2016 on behalf of concerned workmen namely Sri K.P. Jaiswal, Sri K. D. Paswan and Sri M.P. Singh with the following schedule:-

**SCHEDULE**

**“Whether the action of the management of FCI in not recovering the alleged excess amount of incentive paid to the departmental labourer of FSD Gopalpur and dismissing the workmen S/Sri K. P. Jaiswal AG I (D), K. D. Paswan AG II (D) and M P Singh AG II (D) of FSD Gopalpur from service w.e.f. 26.06.2001 is legal & Justified? if not to what relief the concerned workmen are entitled to”**

2. Thereafter notice has been issued to Management of FCI, Regional Office Kolkata which has filed its written statement on 02/09/2016.

The Authorised Representative of FCIEU has filed rejoinder to the written statement of the management on 10/11/2016.

3. The claim of the sponsoring union/concerned workman as per its written statement is as follows:-

That all the concerned workmen namely Keshav Prasad Jaiswal, EX-AG I (D), FCI, Kapildeo Paswan, EX-AG II (D), FCI and Mahendra Prasad Singh, EX-AG II (D), FCI were ex-employee of the Food Corporation of India and were posted at FSD Gopalpur under West Bengal Region in the capacity of AG I (D) and AG II (D) respectively during the relevant time i.e. January 1998 to July 1998. All the concerned workmen were charge-sheeted and thereafter all the concerned workmen were dismissed from service. Thereafter all the concerned workmen had raised an Industrial Dispute before the Regional Labour Commissioner (C) Nizam Palace Kolkata on 18/03/2016 against their dismissal but even after expiry of 45 days no notice for conciliation was received by the workmen namely Keshav Prasad Jaiswal, Kapildeo Paswan as such this dispute was being filed under section 2A (2) of I.D. Act. The concerned workman namely Mahendra Prasad Singh had also raised a dispute on 18/03/2016 but after appearance of workman, the ALC (C) rejected the petition of the workman on the ground of delay without going through the merit of petition but he had not submitted any FOC report to the Government even after expiry of three months as such he has also been included as workman in this case. The charges against all the concerned workmen, Enquiry Officer and proceeding were common and punishment awarded to all the concerned workmen were the same as such all the three workmen have filed this petition jointly. All the concerned workmen were charge-sheeted on 27/07/2000 by SRM FCI, West Bengal along with others for an allegations of payment of excess incentives to the departmental labours of the Gopalpur Godown of FCI and Sri P.K. Mukherjee retired Manager (Finance & Audit) was appointed as Enquiry Officer to enquire into the allegation against all the concerned workmen in a common proceeding. After conclusion of enquiry the Enquiry Officer had held that the charges mentioned in Article 1 of the charge-sheet was proved but the charges mentioned in Article II of the charge-sheet was not proved against any of the workmen. The Enquiry Officer had

submitted the enquiry report to the Disciplinary Authority and the copy of the same had been forwarded to them and all the concerned workman had submitted their reply. Thereafter order of dismissal was passed on 26/06/2001 against all the concerned workmen. After that all the concerned workmen preferred an appeal against the order of dismissal before Zonal Manager but the same was rejected in mechanical manner vide order dated 26/11/2001. The concerned workmen had filed writ petition before the Hon'ble Kolkata High Court against order of dismissal but the said writ petition was not decided and as such as the said petition was withdrawn on 26/11/2015 & 19/02/2016, so the law of limitation is not attracted in this case. The enquiry conducted by the Enquiry Officer was not fair and proper as the concerned Enquiry Officer had not considered the fact that actual beneficiary was the departmental labourers of FSD, Gopalpur and if excess payment was made to them because of mistake of the concerned workmen then it was easy to recover the said amount from the salary of the departmental workers but FCI Management had not taken any step to issue charge-sheet against the labourers and to effect the recovery of the excess amount paid to them. In the charge-sheet there was an allegation of excess payment of Rs. 5,17,755/- by Keshav Prasad Jaiswal, Rs. 2,14,674/- by Kapildeo Paswan and Rs. 5,21,525/- by Mahendra Prasad Singh but the said excess payment was drawn by the departmental labourers which were not recovered from them. The management of FCI had conducted an internal departmental enquiry before issuance of charge-sheet against the concerned workmen wherein name of erring official were mentioned but the names of these workmen were not mentioned in this report. Internal departmental enquiry committee had not found the concerned workmen anyway involved in the said misconduct but charge-sheet were issued against them which is quite illegal and unjustified, so the concerned workmen are entitled to get reinstatement with full back wages along with consequential benefits.

A prayer has been made to pass an order in favour of all the concerned workmen.

4. On the other hand the case of the management of FCI, Regional Office, Kolkata as per its written statement is as follows:-

That the present I.D. Case is not maintainable as all the three concerned workmen were dismissed from service about 15 years ago and under subsection (3) of section 2A of I.D. Act 1947 there is a provisions that the application under subsection (3) of section 2(A) shall be made to Labour Court or Tribunal before the expiry of three years from the date of discharge/dismissal/retrenchment or otherwise termination of service. The concerned workman namely Keshav Prasad Jaiswal and Kapildeo Paswan have filed this I.D. case directly for adjudication under section 2A of the I.D. Act as no notice for conciliation was received by them by the ALC (C) Nizam Palace, Kolkata. Further in respect of concerned workman namely Mahendra Prasad Singh, Ex-AG-II(D) his petition for raising dispute was rejected on the ground of delay in filing I.D. before ALC, Nizam Palace, Kolkata.

A prayer has been made to reject the I.D. straight way on the point of maintainability itself.

5. The representative of union/concerned workmen have filed rejoinder to the written statement of the management stating therein that subsection 3 of section 2A of I.D. Act is not attracted in this case as a writ petition was pending before the Hon'ble Kolkata High Court against the order of dismissal of concerned workmen, so there is no delay on the part of the workmen and immediately after withdrawal of the said writ petition they have raised their dispute before the RLC Kolkata but failure report was not submitted by ALC/RLC even after expiry of the 45 days of filing the dispute. The period of pendency of writ petition is required to be excluded from the counting of three years as the workmen were wrongly advised to file the writ petition and the period consumed in the writ petition may be excluded/condoned in the end of justice.

6. At this stage it is required to mention here that the representative of the concerned workmen and the management have examined WW-1, M.P. Singh and MW-1, Anjan Kumar Samal during the hearing on preliminary point of enquiry conducted against the concerned workmen and later on 08/11/2017 the Tribunal has held the enquiry conducted against the workmen as fair and proper but legality of Enquiry will be taken into during main hearing.

7. The concerned workmen/representative union has examined only one witness on merit. He is WW-1, Keshav Prasad Jaiswal.

The WW-1, Keshav Prasad jaiswal has deposed before the Tribunal that he was one of the concerned workmen in this case and during the period 1997-98 he was posted at ARDC Gopalpur along with two other workmen of this case. He has further stated that a committee was deputed by Regional Office to investigate the excess payment of incentive but the said committee had not found them responsible for preparation of output slip for excess work. He has also deposed that a charge-sheet was issued against them for payment of excess incentive and subsequently Sri P.K. Mukherjee was appointed as Enquiry Officer. He has further stated that in the charge-sheet he had been charged for preparation of output slip of Rs. 5,17,755/-, Sri M.P. Singh had been charged for preparation of output slip of Rs. 5,21,525/- and K.D. Paswan had been charged for preparation of output slip of Rs. 2,14,674/- but the Regional Office team had not found them responsible for preparation for irregular output slip. He has further deposed that the prepared output slip was examined by the Depot Incharge

and I.R. Branch and after tallied the output slip with the shed ledger the output slip was forwarded by Depot Incharge to District Office, FCI for further process. He has also stated that I.R. Branch of District Office used to prepare bill after its examination and finally the bill was passed by the District Manager Food Corporation of India. He has also deposed that there was no certification of attendance of labourers on the front side of output slip by any of the charged employee but this admitted fact by prosecution witness had not been considered by Enquiry Officer. He has also stated that the excess payment of incentive to the departmental labourers is recoverable from them but the alleged excess payment was not recovered from the labourers which was a valid proof that actually allegation of excess payment was wrong. He has also deposed that it was duty of the Depot Officer, Manager (Bill), Manager (IR) as well as District Manager to check the genuineness of the output slip claimed before preparation of their bill by the concerned Officers. He has also deposed that charges levelled against them are baseless and they are entitled for full back wages and all other benefits from the date of dismissal.

In the cross-examination he has deposed that he was Shed Incharge from December 1997 to July 1998. He has also stated that the other concerned workmen were also charge-sheeted for excess payment to departmental labourers.

8. The sponsoring union/concerned workmen have proved only one document which is marked as:-

**Exhibit W-1 series-** Photo Copy of investigating report into the matter of increasing trend of incentive payment to labourers.

9. The management has examined only one witness on merit. He is MW-1 Anjan Kumar Samal.

The MW-1, Anjan Kumar Samal has deposed that he was posted as AGM Vigilance at Regional Office Kolkata on transfer and he had joined as Area Manager, Burdwan. He has also stated that in this case enquiry had been held as fair and proper. He has further stated that the concerned workman had committed grave misconduct by paying excess illegal O.T.A. and incentive to the departmental employees for the period from December 1997 to July 1998 resulting loss to the FCI Management which was established in the court of enquiry. He has further stated that Rs. 5,17,755 had been excess paid by Sri K.P. Jaiswal, Rs. 2,14,674/- had been excess paid by K.D. Paswan and Rs. 5,21,525/- had been excess paid by M.P. Singh and the management after following all the formalities had imposed the penalty of dismissal to all the concerned workmen.

In the cross-examination he has deposed that the allegation against the workmen was preparing over output slip showing more number of bags in the output slip than that of actual which was routed by the Depot Manager to the District Officer for payment. He has also stated that the Officer, after examining, it had made payment. He has also deposed that in this case excess payment was not recovered from the beneficiary but the Depot Manager and all others were dismissed and the beneficiary were not dismissed. He has further deposed that the competent authority had power to recover the excess amount.

10. The management has proved the following documents which are marked as:-

**Exhibit M-1 Series-** (i). Photo Copy of Memorandum No. V&S-8(47)/98-VIII dated 27/07/2000 issued to Sri K.D. Paswan, (ii) Photo Copy of Memorandum No. V&S-8(47)/98-XI dated 27/07/2000 issued to Sri K.P. Jaiswal, (iii) Photo Copy of Memorandum No. V&S-8(47)/98-XII dated 27/07/2000 issued to Sri M.P. Singh.

**Exhibit M-2.** Photo copy of reply dated 10/08/2000 of workmen regarding denial of the charges with regard to fact mentioned in the memorandum issued on 27/07/2000.

**Exhibit M-3.** Photo copy of Order of appointment of Enquiry Officer and Presenting Officer.

**Exhibit M-4.** Photo Copy of enquiry report in respect to departmental proceeding against Bijoy Kumar Das.

**Exhibit M-5 Series-** Photo copy of submission of counter reply in the enquiry report by M.P. Singh and K.D. Paswan.

**Exhibit M-6.** Photo Copy of argument in defence against the enquiry report by Sri K.P. Jaiswal submitted to Senior Regional Manager, West Bengal.

**Exhibit M-7** Photo Copy of order of dismissal against K.D. Paswan.

**Exhibit M-8.** Photo Copy of order of dismissal of K.P. Jaiswal and M.P. Singh.(ten pages)

**Exhibit M-9.** Photo copy of rejection of I.D. dated 18/03/2016 by ALC (C), Kolkata in respect of concerned workman Sri M.P. Singh.

**Exhibit M-10.** Photo Copy of Enquiry Report of K.P. Jaiswal, K.D. Paswan and M.P. Singh.

11. The learned representative of the concerned workmen has submitted before the Tribunal that all the three concerned workmen had been charge-sheeted for excess payment of incentive to the departmental labourer of Gopalpur godown of FCI and after domestic/departmental enquiry all the concerned workmen were

dismissed from the service. He has also argued that domestic/departmental enquiry conducted by the management was not fair and proper as the concerned Enquiry Officer had not considered the fact that actual beneficiary was the departmental labourers of FSD, Gopalpur FCI Depot and if excess payment was made to them due to mistake of the concerned workmen then it was easy to recover the said amount from the salary of the departmental workers but the FCI management had not taken any step in this regard. He has also submitted that the Tribunal has been pleased to hold the enquiry conducted against workmen as fair and proper but the Tribunal has been further pleased to hold that the matter of legality of enquiry would again be gone into during main hearing. He also argued that the enquiry conducted against the concerned workmen is totally illegal and principle of natural justice has not be followed. He has further submitted that an internal departmental enquiry was conducted by a committee comprising of Sri P.C. Benerjee, Asstt. Manager (Vig), Sri P.K. Benerji, Deputy Manager (Vig) and Sri S.K. Nandi, Deputy Manager (A/cs) before issuance of the charge-sheet against the concerned workmen and a report was submitted by them on 11/11/1998 in which the names of these workmen were not mentioned as erring, so the concerned workmen are innocent and they had been wrongly dismissed by the management. He has also argued that the concerned workmen had filed writ petition before Kolkata High Court against their dismissal, so there is delay in filing in this case. He has further submitted that the order of dismissal passed by the FCI management to be set aside and the concerned workmen are directed to be reinstated with full back wages till their superannuation.

12. On the other hand the learned representative of the management has submitted before the Tribunal that all the concerned workmen were charge-sheeted for payment of excess incentive to the workers and subsequently in the departmental enquiry charges of misconduct were proved against all the concerned workmen. He has also argued that the departmental enquiry conducted by the management was fair and proper and all the principles of natural justice were followed. He has further submitted that all the concerned workmen were dismissed from the service and the penalty as imposed is proportionate to the guilt of delinquent officials. He has further argued that this I.D. case is not maintainable as there is no reference made by the Government of India to the CGIT. He has further submitted that this Tribunal has already held the enquiry as fair and proper vide order dated 08/11/2017. He has also argued that the concerned workmen have filed this I.D. case after lapse of fourteen years whereas sub section 3 of Section 2A provides that application shall be made before the expiry of three years from the date of discharge/dismissal/retenchment or otherwise termination. He has further submitted that the concerned workmen namely K.P. Jaiswal, K.D. Paswan and M.P. Singh along with others have been found guilty by Special CBI Court, Asansol Burdwan in Special CBI case no. 80/2011 and they have been sentenced to undergo RI for five years and to pay a fine of Rs. 3000/- and in default payment, RI for one month under section 420 of the IPC, 477 A of the IPC, 120B of the IPC and 13 (2) of the Prevention of corruption Act, 1988 but the concerned workmen have filed this I.D. case by concealing the order of conviction passed against them, so the concerned workmen are not eligible for any relief by this Tribunal.

13. Now, the only point of consideration in this case is whether the action of the management of FCI in not recovering the alleged excess amount of incentive paid to the departmental labourer of FSD Gopalpur and dismissing the concerned workmen is legal and justified and if not to what relief they are entitled to?

### **FINDINGS**

14. At the outset of discussion it is required to mention here that it is an admitted fact that all the concerned workmen namely K.P. Jaiswal, K.D. Paswan and M.P. Singh were dismissed from service after conducting departmental enquiry against them on the allegation of payment of excess incentive to the labourer of Gopalpur FSD under West Bengal Region.

15. Further, it is relevant to mention here that this Tribunal has held the departmental enquiry conducted by the management of FCI against all the concerned workmen as fair and proper vide order 10/11/2016 but the matter of legality of enquiry would be again gone into during main hearing.

16. Now, the Tribunal will discuss the oral and documentary evidences of both the parties.

The WW-1 K.P. Jaiswal has deposed before the Tribunal that he was one of the concerned workmen in this case and during the period 1997-98 he was posted at ARDC Gopalpur along with two others workmen of this case. He has also deposed that he and other concerned workmen were charge-sheeted for making payment of excess incentive of Rs. 5,17,755/- by him, Rs. 5,21,525 by M.P. Singh, Rs. 2,14,674/- by K.D. Paswan but a committee deputed by regional office had not found them responsible for preparation of irregular output slip. He has also deposed that the prepared output slip was examined by Depot Incharge and subsequently it was tallied with the shed ledger which was forwarded to District Office, FCI for processing and preparation of bill which was passed by Disrict Manager, FCI. He has also stated that excess payment made to the labourers is recoverable but the excess payment was not recovered from the labourer. He has made claim that they are entitled for reinstatement with full back wages and other benefits from the date of dismissal. In the cross-examination he has stated that he was shed Incharge from December 1997 to July 1998.

On the other hand the MW-1, Anjan Kumar Samal in his evidence has stated that the concerned workmen had conducted grave misconduct by paying excess O.T.A and incentive to the departmental employees for the period from December 1997 to July 1998 resulting loss to the FCI. He has also deposed that Rs. 5,17,755/- had been excess paid by Sri K.P. Jaiswal, Rs. 2,14,674/- had been excess paid by K.D. Paswan and Rs. 5,21,525/- had been excess paid by M.P. Singh, so the management after following all the formalities had imposed penalty of dismissal to the concerned workmen. In the cross-examination he has deposed that excess payment was not recovered from the beneficiary but the Depot Manager and all others were dismissed from service.

17. Now, coming to the documentary evidence of the concerned workmen it appears that Exhibit W-1 is the photo copy of investigating report into the matter of increasing trend of incentive payment to labourers in which it is mentioned that the incentive cost per bag on monthly turnover during December '97 was Rs. 0.97, which has raised upto Rs. 69.36 during July '98. It has been further mentioned that this clearly indicates that something foul-play was going on at ARDC, Gopalpur.

Further in conclusion portion of the report it is mentioned as Negligence or Supervisory lapses as a whole on the part of the District Management cannot be denied.

On the other hand the documentary evidence of the management shows that Exhibit M-1 is the memorandum of charges issued against concerned workmen namely K.D. Paswan, K.P. Jaiswal and M.P. Singh, Exhibit M-2 is the reply of workmen regarding denial of the charges with regard to fact mention in the memorandum issued on 27/07/2000, Exhibit M-3 is the appointment of Enquiry Officer for conducting enquiry against Sri Binod Kumar and Presenting Officer in the matter of enquiry of Sri Bibekananda Sarkar, Exhibit M-4 is the enquiry report in respect to departmental proceeding against Bijoy Kumar Das which is not relevant in this case, Exhibit M-5 is the submission of counter reply in the enquiry report by M.P. Singh and K.D. Paswan, Exhibit M-6 is the argument in defence against the enquiry report by Sri K.P. Jaiswal submitted to Senior Regional Manager, West Bengal, Exhibit M-7 is the order of dismissal against K.D. Paswan, Exhibit M-8 is the order of dismissal of K.P. Jaiswal and M.P. Singh, Exhibit M-9 is the copy of rejection of I.D. dated 18/03/2016 by ALC (C), Kolkata in respect of Sri M.P. Singh and Exhibit M-10 is the enquiry report of K.P. Jaiswal, K.D. Paswan and M.P. Singh.

18. It is relevant to mention here that the concerned workmen namely K.P. Jaiswal, K.D. Paswan and M.P. Singh were charge-sheeted for excess payment of incentive of Rs. 5,17,755/-, Rs. 2,14,674/- and Rs. 5,21,525/- respectively and for that memorandum of charges were given to them for the period of December 1997 to July 1998 for issuing work done certificate to the departmental labourers. It further appears that concerned workmen namely M.P. Singh, K.D. Paswan and K.P. Jaiswal had submitted their representation against the enquiry report.

After going through the enquiry report which is Exhibit M-10 it appears that P.K. Mukherjee had been appointed as Enquiry Officer in this case and in course of enquiry Sri S.K. Chakraborty, AM(G), FCI, Regional Office, Kolkata was appointed as Presenting Officer. It also appears that all the documents relied by the management for proving charges were inspected by all the charge-sheeted workmen on 12/03/2001 and one set of attested Xerox copies of the documents was handed over by the Presenting Officer to the charged-sheeted workmen. It also appears that the charge-sheeted workmen submitted a list of additional documents for their defence and those documents were obtained from Asst. Manager, FCI, Durgapur. It further appears that the Presenting Officer had examined altogether thirteen witnesses and subsequently the defence of concerned workmen namely K.P. Jaiswal, K.D. Paswan and M.P. Singh were also recorded. It further appears that the Enquiry Officer had found the charge of Article-I of the charge-sheet proved against all the workmen and the charge under Article-II of the charge-sheet had not been proved. It further appears that the competent authority had issued order of dismissal against all the concerned workmen on 26/07/2001.

It also appears that for the same allegation a Special CBI case no. 80/2011 was also registered and in course of trial by the Special (CBI) Judge, Asansol, District Burdwan all the three concerned workmen along with others were found guilty under section 420, 477 A, 120 B of the IPC and 13 (2) of the Prevention of Corruption Act, 1988 and accordingly they were sentenced to rigorous imprisonment for period of five years and to pay a fine of Rs. 3000/- under section 420, 477 A, 120 B of the IPC and 13 (2) of the Prevention of Corruption Act, 1988 and in default of payment of fine R.I for one month.

19. Now after analyzing oral and documentary evidences of both the parties it is very much evident that there was an excess payment of incentive to departmental labours from the period December 1997 to July 1998 as in the Exhibit W-1 it has been mentioned that something foul-play was going on at ARDC, Gopalpur. Further the enquiry report which is Exhibit M-10 shows that an enquiry was conducted against the concerned workmen along with Bibekananda Sarkar and charges of Article I of Memorandum have been proved against all of them and subsequently they were dismissed from the service. Moreover all the concerned workmen and others were subsequently prosecuted in the Court of Special Judge, CBI, Burdwan in which all of them had been found guilty under section 420, 477 A, 120 B of the IPC and 13 (2) of the Prevention of Corruption Act, 1988 and subsequently all the concerned workmen were sentenced to undergo rigorous imprisonment of five years and to



pay a fine of Rs. 3000 and in default R.I. for one month u/s section 420, 477 A, 120 B of the IPC and 13 (2) of the Prevention of Corruption Act, 1988.

20. Under such circumstances and conditions the Tribunal comes to the conclusion that the charges of Article I of Memorandum against all the concerned workmen had been proved in the Enquiry proceeding and they were awarded punishment of dismissal from service. Moreover there is no evidence in this case that the punishment awarded to the concerned workmen is disproportionate to the charges proved against them, so they are not entitled for any lesser punishment in lieu of dismissal from the service.

Hence, the action of the management of FCI, Gopalpur in dismissing all the concerned workmen is legal and justified.

21. The next point of consideration in this case is whether the action of the management of FCI in not recovery the alleged excess amount of incentive paid to the departmental labourer of FSD Gopalpur is legal and justified?

In this regard it is required to mention here that there is no pleading in the written statement of the concerned workmen regarding how much excess payment was made to the departmental labours and to whom said excess amount of payment was made.

Further the MW-1, K.P. Jaiswal had deposed that excess payment of incentive to the departmental labours has not been recovered. Moreover the MW-1, Anjan Kumar Samal has also stated in his evidence that the excess payment made to the departmental labours has not been recovered but has stated the Depot Manager and all others were dismissed from the service.

22. Now, in this case the excess amount of payment made to the departmental labourer has not been ascertained individually in this case, so the same is not possible to be recovered from them.

23. Under such circumstances and conditions the Tribunal finds and holds that the action of the management for not recovering the alleged excess amount of incentive paid to the departmental labourer of FSD Gopalpur is legal and justified.

24. The learned lawyer of the concerned workmen has submitted that the Tribunal has been pleased to hold the enquiry conducted against concerned workmen as fair and proper but the Tribunal has further been pleased to hold that the legality of the enquiry will be again gone into during the main hearing.

In this regard the learned lawyer of respondent has submitted that there is no illegality in the enquiry proceedings and the concerned workmen had been given full opportunity for his defense and all the principals of natural justice have been followed, so there is no illegality in the enquiry proceedings.

After going through the enquiry report which is Exhibit M-10 it appears that the Enquiry Officer had examined witnesses in presence of all the concerned workmen. It also appears that the defense of concerned workmen were recorded and thereafter finding was given, so there is not illegality in the matter of enquiry conducted against all the concerned workmen.

25. In view of such fact the Tribunal finds that there is no illegality in the proceeding of enquiry conducted against all the concerned workmen.

26. It is relevant to mention here that the management had initially raised an issue that after expiry of three years from the date of dismissal, the concerned workmen had filed this case before this Tribunal under section 2A of the I.D. Act.

In this regard the learned representative of the union has submitted that the concerned workmen had filed a writ petition before the Kolkata High Court against the order of dismissal of concerned workmen but the said writ petition was not decided and as such the said writ petition was withdrawn on 26/11/2015 and 19/02/2016, so the law of limitation will not be attracted in this case.

27. It is required to mention here that all three concerned workmen were dismissed from service on 26/06/2001 and after lapse of fifteen years this I.D. case had been filed before this Tribunal on 03/06/2016.

28. At this stage the Tribunal thinks it proper to reproduce the **section 2A of the I.D. Act** which reads as follows:-

**2A.<sup>1</sup> Dismissal, etc., of an individual workman to be deemed to be an industrial dispute.-** (1) Where any employer discharges, dismisses, retrenches, or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.]

(2).....

(3) The Application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section (1).]

29. It is relevant to mention here that under sub section (3) of section 2-A of I.D. Act there is a provision that the application referred to under sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of 3 years from the date of discharge, dismissal, retrenchment, or otherwise termination of the service as specified in sub-section (1).

30. The Hon'ble Madras High Court in **W.P. (MD). No. 4269/2017** has been pleased to hold that the workman must raise an Industrial Dispute before the Conciliation Officer and upon expiry on 45 days from the filing of an application before the Conciliation Officer the workman can move application to the Labour Court before the expiry of 3 years from the date of his dismissal. It has been further held that in any event right conferred under section 2-A of the Act lapses immediately preceding the date of expiry of three years from the date of dismissal. The Hon'ble Madras High Court in an another case - **Ravi Kumar Vs. Management of Tamil Nadu State Transport Corporation (W.P. (MD). No. 4269/2017)** has expressed the same view.

31. It is important to mention here that all the concerned workmen have not produced any order of the Kolkata High Court including the order of withdrawal of the writ petition. Moreover the concerned workmen have not submitted number of writ petition by which writ petition had been registered and the same was pending for last fifteen years.

In absence of any specific documents/order of the Hon'ble Kolkata High Court it is not desirable to rely on the averments made by the concerned workmen. Moreover there is specific limitation of three years u/s 2A of I.D. Act for filing application in Labour Court or Tribunal from the date of dismissal/discharge but here in this case this I.D. case has been filed after lapse of fifteen years, so this I.D. case is not maintainable.

32. Now, the Tribunal renders the following award:-

The action of the management of FCI in not recovering the alleged excess amount of incentive paid to the departmental labourer of FSD Gopalpur and dismissing the workmen Sri K.P. Jaiswal, AG I (D), K.D. Paswan AG II (D) and M.P. Singh, AG II (D) of FSD Gopalpur from the service w.e.f. 26/06/2001 is legal and justified.

Hence, all the concerned workmen are not entitled for any relief.

This is the Award of this Tribunal.

DINESH KUMAR SINGH, Presiding Officer

नई दिल्ली, 20 जुलाई, 2021

**का.आ. 490.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स डब्ल्यू.सी.एल.के प्रबंधन के संबंध निर्योजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह - श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 38/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15.07.2021 को प्राप्त हुआ था।

[सं. एल- 22012/1/2010-आईआर (सीएम-2)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 20th July, 2021

**S.O. 490.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 38/2010) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the Management of M/s. W.C.L and their workmen, received by the Central Government on 15.07.2021.

[No. L- 22012/1/2010-IR (CM-II)]

RAJENDER SINGH, Under Secy.

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
JABALPURNO. CGIT/LC/R/38/2010**Present:** P. K. Srivastava, H.J.S..( Retd)

Shri Bharat Singh Sakrawar,  
General Secretary,  
Sanyukta Koyala Mazdoor Sangh (INUC)  
Iklehra,  
Chhindwara (M.P.)

... Workman

## Versus

The Chief General Manager  
W.C.L.,  
Pench Area, P.O.Parasia,  
Chhindwara (M.P.)

...Management

## AWARD

(Passed on this 2<sup>nd</sup> day of July-2021)

As per letter dated 7/6/2010 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D.Act, 1947 as per Notification No.L-22012/1/2010-IR(CM-II). The dispute under reference relates to:

***“Whether the action of the management of WCL in not providing employment to Smt. Bhujlo Bai, Wife of the deceased workman namely Late Shri Ujarlal is legal and justified? To what relief the claimant is entitled for? .”***

1. After registering the case on the basis of reference, notices were sent to the parties.
2. The case of the workman as stated in his statement of claim is that the workman Ujarlal was employed with the Management in Mathani Mine of WCL, Pench Area as Timber Mistry, Token No.859 and died during employment on 10-11-1996. He was survived by his widow Smt. Bhujlo Bai. She had applied for compassionate appointment and submitted her application on 24-9-1997. She had requested for compassionate appointment or monthly compensation as per Rules. This application was rejected by the Management on the ground that she has attained 47 years aged on the date of application, which was without any inquiry or basis. In fact she was below 45 years of age and was legally eligible for appointment on compassionate grounds. Accordingly, it has been prayed that setting aside the order of management, she be ordered to be considered for compassionate appointment or in the alternative for monetary compensation, as per rules.
3. The case of Management in its written statement of defense is that the provisions regarding employment on compassionate ground came into effect from 1-1-1979 therefore NCWA-II and were carried out to the subsequent NCWA. In the latest NCWA-V, the provisions of compassionate appointment have been restricted by imposing conditions of fitness and age which is 45 years in case of female spouse of deceased workman. It is also provided that monetary compensation may be provided to female dependent of deceased workman in case no appointment on compassionate ground is given to the spouse or other legal heirs of the deceased workman. It was further stated that the applicant being widow of the deceased workman applied for compassionate appointment. During the time of medical examination she declared her age as 47 years, hence she was over aged and her appointment could not be considered as she was above 45 years of age/ She was advised to submit application granting monthly monetary compensation in lieu of compassionate appointment. She did file application for monthly monetary compensation on 28-3-2009, which was forwarded to the Competent Authority by the Area Management, but was rejected, as it was filed in a highly delayed stage of 10 years. This, decision of Competent Authority was communicated to the applicant widow. According to the management, the action of Management is justified in law and does not warrant any interference. Accordingly it has been prayed that the reference be answered against the workman.
4. The workman has filed and proved photocopy of death certificate of deceased workman. Copy of Coal India Circular dated 7-7-1992, application for compassionate appointment dated 24-9-1997. The workman side has further examined Rajlal, son of the deceased workman on oath as witness.
5. The Management has filed and proved documents, photocopy of form of medical examination, application for monthly monetary compensation, letter of management dated 14-9-2009 refusing monthly monetary compensation and has examined its witness P.Subramani on oath.

6. I have heard the arguments of Union Representative Shri Mahendra Chhaterjee and Shri A.K.Shashi, learned counsel for the Management. I have gone through the record as well.

7. **The Reference is the point for determination in the case in hand.**

8. Reference of the concerned Rules for compassionate appointment and monthly monetary compensation requires to be mentioned here which is as follows:-

9. **3.4 of NCWA-V:-**

**The deceased dependents to be considered for employment should be physically fit and suitable for employment and aged not more than 35 years, provided that the age limit in case of employment of female spouse would be up to 45 years as given in Clause 9.5.0 (of NCWA-V). In so far as male spouse is concerned, there would be no age limit regarding provision of employment.**

10. **3.6(1) of NCWA-V:-**

**Employment/Monetary Compensation to female dependant:-**

**Provision of employment/monetary compensation to female dependents of workmen who die while in service and who are declared medically unfit as per Clause 9.4.0 about would be regulated as under:-**

- (i) **In case of death due to mine accident, the female dependent would have the option to either accept the monetary compensation of Rs.3000/- per month of employment irrespective of her age (Clause 9.5.0(i).**

11. As stated by from the side of the workman, there is not documentary evidence regarding the date of birth of the applicant of the deceased workman. The medical report mentions her approximate age which was 47 years at the time of medical examination. The Rules mentioned above make spouse aged up to 45 years only eligible for compassionate appointment. Hence, refusal of compassionate appointment to the applicant spouse of the deceased workman cannot be held unjustified in law or fact.

12. As mentioned above the Rules provides for monthly monetary compensation to the spouse of the deceased workman in case no compassionate appointment is given. According, to the management, prayer for monthly monetary compensation was rejected as highly belated. Exhibit W-4 is an application of the applicant/spouse dated 24-9-1997, wherein it has been mentioned at point No.2 that an application for monthly monetary compensation was also submitted along application for compassionate appointment. It seems that the applicant/widow filed a separate application also later on in the year 2009 which was rejected as highly belated, but the application made in year 1997 (Exhibit W-4) made a mention of prayer regarding monthly compensation which was not considered by the Management. Hence in the back drop of these facts, the applicant widow cannot be held guilty of laches in making prayer for monthly monetary compensation, rather, the Management committed illegality in not considering this prayer as mentioned in the Exhibit W-4 filed in the year 1997. Accordingly, it is held that refusal of monthly compensation by Management on the ground of delay, is not justified in law and applicant/spouse is held entitled to monthly monetary compensation as per Rules 3.6(1) of NCWA-V along with interest.

13. On the basis of the above discussion, following award is passed:-

- A. **The action of the management of WCL in not providing employment to Smt. Bhujlo Bai, Wife of the deceased workman namely Late Shri Ujarlal is legal and justified.**
- B. **Smt. Bhujlo Bai is entitled to get monthly monetary compensation payable to her as spouse of deceased workman Ujarlal as per Rules 3.6(1) of NCWA-V and from the date of death of deceased workman along with interest @ 10 % per annum.**
- C. **Smt. Bhujlo Bai is also entitled to cost of litigation quantified at Rs.10,000(Rs. Ten thousand only).**

14. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 20 जुलाई, 2021

**का.आ. 491.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स एस.ई.सी.एल.के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह - श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 129/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15.07.2021 को प्राप्त हुआ था।

[सं. एल- 22012 / 147 / 2012-आईआर (सीएम-2)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 20th July, 2021

**S.O. 491.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 129/2012) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the Management of M/s. S.E.C.L and their workmen, received by the Central Government on 15.07.2021.

[No. L-22012/147/2012-IR (CM-II)]

RAJENDER SINGH, Under Secy.

**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
JABALPUR****NO. CGIT/LC/R/129/2012****Present:** P.K. Srivastava, H.J.S..(Retd)

The General Secretary,  
Koyla Mazdoor Sabha (HMS),  
Kusumunda Area, Qtr No.M/19,  
Vikas Nagar, Kusumunda PO,  
Korba,  
Chhattisgarh (C.G.)

... Workman

**Versus**

The General Manager (P&A)  
SECL, Head Quarter, Bilaspur  
Chhattisgarh (C.G.)

The General Manager  
Kusumunda, Area of SECL,  
Kusumunda, District Korba,  
Chhattisgarh (C.G.)

...Management

**AWARD****(Passed on this 1<sup>st</sup> day of July-2021)**

As per letter dated 16/11/2012 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D.Act, 1947 as per Notification No.L-22012/147/2012(IR(CM-II)). The dispute under reference relates to:

*“Whether the action of the management of (i)General Manager, Kusmunda Area of SECL Kusumunda, Dist-Korba (CG) and (ii) the General Manager (P&A), SECL, H.Q., Bilaspur (CG) in not correction the date of birth in service sheet in respect of Shri Prakash Kumar Thakur, Clerk Grade-I on the basis of the Matriculation Certificate as submitted at the time of appointment as well as the CMPF documents/records of the company was legal, proper and justified? What relief the said workman is entitled to and from what date.?”*

1. After registering the case on the basis of reference, notices were sent to the parties.
2. The case of the workman as stated in his statement of claim is that he was appointed as General Mazdoor in the year 1979. He had submitted his matriculation certificate issued in the year 1977 by Board of Secondary Education of M.P. taking his date of birth 17-1-1959 at the time of his appointment. He had gone for initial medical examination under the Mines Rule 1955. His date of birth was required to be filled on the basis

of matriculation certificate produced by him which was not done and it was recorded arbitrarily by Management as 1-1-1955 in the Form-B register and in the Form-A register which was Coal Mines Provident Fund, his date of birth as mentioned in matriculation certificate was recorded and it was authenticated by the Colliery Manager who was the Competent Authority. During the course of service he fulfilled statutory form PS-3 and PS-4 relating to the particulars of his family and nomination. He first came to know about the arbitrary recording of his date of birth not in accordance with the matriculation certificate when he was served with copy of PS-3 and PS-4 and after he made several representation before the Authority to get his date of birth corrected in his service record, but of no use and his date of birth was not corrected by Management. He raised a dispute before the concerned Assistant Labour Commissioner, which could not be conciliated and reference was sent by appropriate Government for adjudication. It is the case of the workman that, the action of Management was violative of Implementation of Instruction 1976, which is required to be rectified. Accordingly, it has been prayed that holding the action of Management not correct, his date of birth is against law, which is required to be corrected in accordance with higher secondary certificate of 1977.

3. The case of Management in its written statement of defence is that the workman was first appointed as General Mazdoor Category-1 as Land-Oustee. He disclosed his date of birth as 1-1-1955 which was recorded in relevant registers at time to time. He never produced matriculation certificate and at the fag end of service, he is seeking correction of his date of birth, which is not permissible in Law, accordingly, it has been prayed that the reference be answered against the workman, holding the action of the Management as per law.

4. The workman has filed and proved Exhibit W-1, representation before Assistant labour Commissioner, Exhibit W-2 reply of Management before Assistant labour Commissioner, Exhibit W-3 failure report, Exhibit W-4 copy of Form-B, Exhibit W-5 nation Coal Wage Scheme-3 Implementation Instruction No.76(these documents are not required to be proved as Court will take judicial notice of it), Exhibit W-5 copy of matriculation certificate, Exhibit W-7 Coal Mines Provident Fund form, Exhibit W-8, Form PS-3, Exhibit W-9 Form PS-4, Exhibit W-10 & 11 representation of workman before Management. The workman has also examined himself on oath as witness.

5. The Management has filed Exhibit M-1 copy of appointment letter, Exhibit M-2 copy of Form -B, Exhibit M-3 service register copy, Exhibit M-4 extract of service record, Exhibit M-5 report of medical examination, Exhibit M-6 recommendation of Age Determination Committee. The Management had examined its witness P.Satyanarayana, Manager Personnel who has been cross-examined by the workman.

6. Arguments of Shri R.C.Shrivastava, learned counsel of workman and Shri A.K.Shashi, learned Counsel for Management has been heard by him through video conferencing. I have perused the record also.

7. The workman has relied on following case laws:-

8. **Ramkumar Yadav Vs. South Eastern Coal Fields Ltd.** (2006)1 MPLJ wherein it has been held that :-

“The Petitioners date of birth was 30-1-1948 as mentioned in the High School Examination Certificate and the date of birth in the monthly pay slip was interpolated as 25-7-1945- the date of birth in the High School Examination Certificate should be accepted.”

9. In case of **Bharat Cooking Coal Ltd. and Others Vs. Chhota Birsra Uranw** (2014)-3-LLJ, it has been held that

“in case of discrepancy, the respondent joined in the appellant company and his date of birth was recorded in the Form-B which was in conflict with date of birth entered in school certificate. The respondent workman made a representation for rectification of record and same was denied. Respondent was intimated about his superannuation based on date of birth recorded in service record and not on School Certificate. It was held that procedure followed by the appellant company, placing reliance on Form-B register to conclude on date of birth of respondent was not correct also held that the appellant company who have followed procedure laid down by Implementation Instruction contained in National Coal Wage Agreement to determine date of birth.”

10. The Management has relied on following Case Laws:-

11. In Judgment of **Writ Petition No.(s) 1317/2015 (Subhashis Sinha Vs. SECL and Others**, Hon'ble High Court at Chhattisgarh,:-

“It was found that the applicant had concealed his High School Examination Qualification in order to obtain a job as illiterate persons and after getting the job, he disclosed his High School Certificate age. On the facts, peculiar to the case, his prayer to rectify his date of birth was refused by Hon'ble High Court.”

12. **State of U.P. and Another Vs. Shiv Narayan Upadhyaya**(2005) 6 SCC 49 it has been held that :-  
 “date of birth as recorded in the service book should be decisive-correction therefore can only be sought in accordance with procedure prescribed and within the time fixed under rules or order or within reasonable time in absence of any rules or order. Challenge to date of birth as recorded in the service book, made on the eve of retirement should not normally be entertained-Onus lies on the employee concerned to prove by irrefutable evidence his pleas of error in service book- Court or Tribunal should be slow in issuing directions for correction of date of birth or in granting interim relief or continuation in service, unless there is clear clinching and unimpeachable evidence in that regard.”
13. **State of Haryana Vs. Satish Kumar Mittal & Another**(2011)1 MPLJ it was held that :-  
 “Application for correction in service record- must be made within the time provided in the rules”
14. **G.M.Bharat Cooking Coal Ltd. Vs. Shib Kumar Dushad & Others**(2000)8 SCC 696, it has been held that :-  
 “Where question regarding correctness of date of birth as entered in service record raised by employee, long after his joining the service and the employer decided the question following the procedure prescribed by stature, statutory rules or instructions, held, in absence of any arithmetical or typographical error apparent on the face of the record, High Court should not interfere with such decision of the employer, also held on facts that management correctly referred the matter to Medical Board and accepted determination of age of the employee by the Board in accordance with the procedure laid down.”
15. After having perused the record in the light of rival arguments, following points come up for determination in the case in hand :-
1. “Whether the finding of the Age Determination Committee are correct in fact and law in respect of the workman.
  2. “Whether the workman is entitled to any relief.”
16. **ISSUE NO. 1:-**  
 Before entering into any discussion, the implementation Instruction No.76 is required to be produced as follows:-
- A. Determination of the age at the time of appointment:**
- (i) Matriculates.**
- In the case of appointees who have passed matriculation or equivalent examinations, the date of birth recorded in the said certificate shall be treated as correct date of birth and the same will not be altered under any circumstances.**
17. It is not disputed that the workman had passed higher secondary in the year 1977 i.e. before his employment in the year 1979. The report of Age Determination Committee which is filed and proved by Management is Exhibit M-6, has made following recommendations regarding the dispute of Management which are as follows:-
1. Employee raised the issue in the year 2007 after 28 years of service.
  2. The case was earlier examined at head quarter in 2011 and communicated date of birth as 1-1-1955, recorded in Form-B and Service Register shall be treated as correct.
  3. At present the case is pending before CGIT, Jabalpur Case No.R-129/2012.
  4. The Committee has examined case as per Provisions of I.I.No.76 and recommended date of birth 1-1-1955 recorded in Form-B and Service Register shall be treated as correct.
18. Perusal of this report shows that, this report was submitted during the pendency of case in hand before this Tribunal and before this report, his case was examined by the Head Quarters in 2011. The Head Quarter found the date of birth 1-1-1955 recorded in Form-B and service register, was correct.
19. The Management has not filed the report/order of Head Quarters holding the date of birth of the workman recorded in Form-B and Service Register correct and date of birth recorded in matriculation certificate incorrect. Implementation Instruction 1976 define procedure of settling disputes regard age of the workman . It states that in case of the workman who are matriculate before entering the services, the date of birth mentioned in the matriculation certificate shall be deemed correct. The reasons mentioned above in the report of I.I.76 Committee, has not considered this aspect. There is nothing on record to show on what ground the head quarter

reached at a conclusion that the date of birth mentioned in the matriculation certificate was not correct. Hence on the basis of these established facts, it is clear that neither the Age Determination Committee, nor the Head Quarter was acting as per law in refusing the date of birth of workman mentioned in the matriculation certificate as incorrect. The case laws referred to by Management can easily be distinguished on facts and they are not applicable in the case in hand.

20. On the basis of these findings, it is held that the action of Management in not correcting the date of birth in service records of the workman on the basis of date of birth mentioned in his matriculation certificate is neither legal nor proper. **Issue No.1 is answered accordingly.**

21. **ISSUE NO. 2:-**

The workman is held entitled to get his date of birth corrected in the Service Records maintained by the Company, according to that mentioned in his matriculation certificate which is 17-1-1959 and accordingly he is also entitled to all service pre and post retiral benefits, treating him in service till he reached at the age of superannuation, on the basis of his date of birth 17-1-1959. **Issue No. 2 is decided accordingly.**

22. On the basis of the above discussion, following award is passed:-

- A. **The action of the management of (i) General Manager, Kusmunda Area of SECL Kusumunda, Dist-Korba (CG) and (ii) the General Manager (P&A), SECL, H.Q., Bilaspur (CG) in not correction the date of birth in service sheet in respect of Shri Prakash Kumar Thakur, Clerk Grade-I on the basis of the Matriculation Certificate as submitted at the time of appointment as well as the CMPF documents/records of the company is held not legal and proper.**
- B. **The workman is held entitled to all service pre and post retiral benefits, treating him in service till he reached at the age of superannuation, on the basis of his date of birth i.e. 17-1-1959.**

23. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P.K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 20 जुलाई, 2021

**का.आ. 492.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स डब्ल्यू.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण—सह-श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 123/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15.07.2021 को प्राप्त हुआ था।

[सं. एल-22012/150/2012-आईआर (सीएम-2)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 20th July, 2021

**S.O. 492.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 123/2012) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the Management of M/s. W.C.L and their workmen, received by the Central Government on 15.07.2021.

[No. L-22012/150/2012-IR (CM-II)]

RAJENDER SINGH, Under Secy.



## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
JABALPURNO. CGIT/LC/R/123/2012**Present:** P. K. Srivastava, H.J.S..(Retd)

Shri Nepal  
S/o Shri Haripad,  
R/o H.No. 179 Subhash Nagar,  
Pathakheda (WCL),  
District-Betul, (M.P.)

... Workman

Versus

The Chief General Manager,  
Western Coalfields Limited Pathakheda,  
District Betul (M.P.)

... Management

## AWARD

(Passed on this 28<sup>th</sup> day of June-2021)

As per letter dated 6-11-2012 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-220012/150/2012-IR(CM-II). The dispute under reference relates to:

***“Whether the services of Shri Nepal was illegally superannuated before completion of 60 years of age. What relief he is entitled to ? .”***

1. After registering the case on the basis of reference, notices were sent to the parties to file their pleadings and documentary evidence. At thi stage, when the case was pending before this Tribunal for evidence of parties, an application has been filed by the legal representative of the deceased workman stating that the dispute has ceased to exist due to death of the workman and as such the case be closed and a no dispute award be passed.
2. The dispute relates to alleged pre-mature retirement of the workman Nepal (now deceased). Since it is a personal relief, the dispute comes to an end with the death of the workman. More, over the legal representative are also not interested to pursue the cases. In this light of these facts, following no dispute award is passed.
3. Since the dispute has ceased due of the death of the workman (Nepal), a NO-DISPUTE AWARD is passed.
4. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P.K.SRIVASTAVA, Presiding Officer

नई दिल्ली, 20 जुलाई, 2021

**का.आ. 493.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स एस.ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण—यह - श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 36/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15.07.2021 को प्राप्त हुआ था।

[सं. एल-22012/238/2012-आईआर (सीएम-2)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 20th July, 2021

**S.O. 493.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 36/2013) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the Management of M/s. S.E.C.L and their workmen, received by the Central Government on 15.07.2021.

[No. L-22012/238/2012-IR (CM-II)]

RAJENDER SINGH, Under Secy.

### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

**NO. CGIT/LC/R/36/2013**

**Present:** P.K. Srivastava, H.J.S..( Retd)

Shri Shi V. Kumar Patel  
Behind Suhagpur Guest House  
Dhanpuri,  
District shahdol (MP)

... Workman

**Versus**

The Genenral Manager  
Sohagpur Area of SECL  
PO, Dhanpuri  
District Shahdol (MP)

... Management

### AWARD

**(Passed on this 2<sup>nd</sup> day of July-2021)**

As per letter dated 11/2/2013 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-22012/238/2012-IRCM-II). The dispute under reference relates to:

**“Whether the action of the management of the Sohagpur Area of SECL in terminating the services of Shri Shiv Patel, workman, is legal and justified? if not to what relief the workman is entitled for? .”**

1. After registering the case on the basis of reference, notices were sent to the parties.
2. The case of the workman as stated in his statement of claim is that he was first appointed as Mazdoor in the year 1982 and since then he has been working with utmost sincerity and to the satisfaction of his superiors in different positions. He filed a Writ Petition No.3868/2005 before Hon'ble High Court regarding some grievance relating to his service, which was disposed by Hon'ble High Court vide order dated 23-3-2005 with a direction to dispose his representation within two months of the order. His representation was wrongly dismissed by Management in compliance of the order without following the said order. He again filed a writ petition No.15805/2005 which was disposed by Hon'ble High Court vide order dated 6-9-2011. It was also observed that since, he was dismissed from service during the pendency of the writ petition, he was at liberty to file a departmental appeal against his termination which will be disposed according to law. He may seek recourse to Industrial Disputes Act,1947. He did file an appeal against his termination requesting an opportunity to be heard during the inquiry, but this appeal was not disposed. It is further alleged that he was not given any chance to put his version during the inquiry. He was not given any notice, no charges were served on him. No charges were proved on him and the Disciplinary Authority passed order of dismissal on an Inquiry Report which was conducted against law, inspite of the fact that charges were not proved during the inquiry. It is also alleged that the sentence is dis-proportionate to the charge and requires to be set aside. He has very clean service record. He was never punished or awarded adversely before the inquiry in question. Accordingly, it has been prayed that setting aside the dismissal the workman be reinstated along with back wages and benefits.
3. The case of Management in its statement of defence is that the workman has been a habitual absentee. He has been in the habit of not performing job after marking his attendance. He was a habitual offender committing acts of gross mis-conduct. He was given several opportunities to improve his conduct, but of no use. He was issued a charge sheet on 23-4-2006 leveling following charges:-

**A.26.5:- Willful dis-obedience of order of Superiors.**

**B.26.22:- Willful breach of discipline resulting into loss to company.**

**C.26.34:- Unauthorisedly and willfully absenting himself for a long period.**

4. The Inquiry Officer and Management Representative were appointed. During inquiry notices were sent to the workman were served on him but he never participated in the inquiry. Hence the inquiry proceeded ex-parte against him. The Inquiry Officer submitted his report holding the charges proved against the workman. He was also issued show cause notice on the Inquiry Report but he did not respond since the act and charges proved against the workman were of gross misconduct, punishment for which is dismissal in the Service Rules. He was dismissed from service and appeal against the dismissal order was also dismissed.

5. It was further the case of the Management that the Inquiry conducted was according to law and fact following principles of natural justice. The charges were proved and punishment is also not disproportionate to the charges.

6. Following preliminary issue was framed by my learned Predecessor:-

**1“Whether the inquiry conducted against the workman is proper and legal?”**

7. During evidence on preliminary issue no.1, the Management filed and proved inquiry papers and report Exhibit M-1 to M-16. The Management examined Y.L. Joshi as its witness, who was examined by workman. The workman examined himself on oath and was cross-examined.

8. On the basis of evidence on record, the preliminary issue no.1 was disposed by my learned Predecessor, vide his order dated 23-1-2017 and the departmental inquiry was held legal and proper without any infirmity. **His this order is part of the Award.**

9. Following Additional Issues were also framed by my learned Predecessor on 23-1-2017:-

**1. “Whether the misconduct alleged against workman is proved from evidence in Enquiry Proceedings?”**

**2. “Whether the punishment of dismissal imposed against workman is legal and proper?”**

**3. If, so, what relief the workman is entitled to?”**

10. Parties were given opportunity to lead evidence on facts and issues. The workman again examined himself on oath on additional issues. He also filed certified copies of Writ petition filed before Hon'ble High Court. Order of Hon'ble High Court, appointment letter, increment letter, copies of applications and representations, which have been marked as exhibits. No evidence has been filed by the Management on additional issues. I have heard arguments of learned counsel for workman Shri Praveen Yadav and Shri A.K.Shashi, learned counsel for the Management. I have also gone through the record.

**11. ADDITIONAL ISSUE NO. 1:-**

The inquiry papers proved the statements of Management witness Y.N. Shukla. He also filed documentary evidence as mentioned in the Inquiry Report. The statement of the Management witness coupled with the documents and other statement of other Management witness Shri Mukul Sinha as well as R.K.Shrivastava supported the charge of misconduct as leveled against the workman in the charge sheet. It is noteworthy that the workman did not prefer to participate in the inquiry. Hence it can be said that the charges leveled are proved from the inquiry papers and this fact is held accordingly. **Additional Issue No.1 is answered.**

**12. ADDITIONAL ISSUE NO.2:-**

The concerned standing order provides for dismissal for the unauthorized and willful absence a for a long period, insubordination and indiscipline, which are held proved against the workman. The case of the workman is that the punishment is shockingly disproportionate to the charge. It has been submitted on his behalf that before the charge sheet, he was never issued any memo, any warning, or any adverse remark regarding his work, during his whole service period. This fact was not considered by the Competent Authority and Appellate Authority, while awarding the punishment. Hence the punishment is disproportionate to the charge.

13. Learned counsel for the Management has defended the impugned dismissal order with an argument that no employer bears insubordination and indiscipline of an employee who comes in office and does not work after signing the attendance register or an employee who is willful of being unauthorisedly absenting himself from work place. Hence the punishment is not shockingly disproportionate to the charge.

14. Now, after decision of the Additional Issue no. 01, against the workman, the submissions of the workman that the punishment imposed upon him is disproportionate and this Tribunal should interfere into it within the provisions providing under Section 11 A of the Industrial Disputes Act, 1947 is taken into account. In this regard, it is well settled that the Labour Court has ample power under section 11-A of the Industrial Disputes Act, 1947 to substitute a lesser punishment, taking into consideration the facts and circumstances of the case. Moreover, the principle of proportionality calls for interference of this Court into the punishment

imposed by the management i.e. of removal in view of law in **Joseph Solomon vs. Presiding Officer, Labour Court, U.P., Dehradun & another 2012 (134) FLR 424.**

15. It is admitted proposition of law that the Court cannot sit in appeal or it cannot re-appreciate the evidence relied before Inquiry Officer; in as much as it cannot alter the order or punishment; however, the scope of invoking the powers given under Section 11 A of the Act, by the Labour Court is confined to the condition that the Court should interfere with the order of punishment when it is disproportionate with respect to the misconduct committed or it is harsh.

15. Hon'ble Apex Court in **B.C. Chavurvedi v. Union of India, (1995) 6 SCC 749** while discussing about the scope of judicial review, in disciplinary matters, has observed as under:

**“The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mold the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, imposed appropriate punishment with cogent reasons in support thereof.”**

16. In **DG, RPF vs. Sai Babu (2003) 4 SCC 331**, Hon'ble Apex Court has observed that:

**“Normally, the punishment imposed by a disciplinary authority should not be disturbed by the High Court or a tribunal except in appropriate cases that too only after reaching a conclusion that the punishment imposed is grossly or shockingly disproportionate, after examining all the relevant factors including the nature of charges proved against, the past conduct, penalty imposed earlier, the nature of duties assigned having due regard to their sensitiveness, exactness expected of an discipline required to be maintained, and the department /establishment which the delinquent person concerned works.”**

17. In **United Commercial Bank vs. P.C. Kakkar (2003) 4 SCC 364** Hon'ble Apex Court on review of a long line of cases and the principles of judicial review of administrative action under English law summarized the legal position in the following words:

**“The common thread running through in all these decisions is that the court should not interfere with the administrators' decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the court, in the sense that it was in defiance of logic or moral standards. In view of what has been stated in Wednesbury case the court would not go into the correctness of the choice made by the administrator open to him and the court should not substitute its decision to that of the administrator. The scope of judicial review is judicial review is limited to the deficiency in decision-making process and not the decision.**

**To put it differently, unless the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the court/tribunal, there is no scope for interference. Further, to shorten litigation it may, in exceptional and rare cases, impose appropriate punishment by recording cogent reasons in support thereof.”**

18. In **Union of India vs. S.S. Ahluwalia (2007) 7 SCC 257** Hon'ble Supreme Court reiterated the legal position as follows:

**“..... The scope of judicial review in the matter of imposition of penalty as a result of disciplinary proceedings is very limited. The court can interfere with the punishment only if it finds the same to be shockingly disproportionate to the charges found to be proved.”**

19. In **State of Meghalaya v. Mecken Singh N. Marak (2008) 7 SCC 580** Hon'ble Supreme Court stated that:

**“The punishment imposed by the disciplinary authority or the appellate authority unless shocking to the conscience of the court, cannot be subjected to judicial review.**

20. Hon'ble Apex Court in Administrator, **Union Territory of Dadra and Nagar Haveli vs. Gulbhia M. Lad (2010) 2 SCC (L&S) 101** has observed that :

**“The legal position is fairly well settled that while exercising the power of judicial review, the High Court or a Tribunal cannot interfere with the discretion exercised by the disciplinary authority, and/or on appeal the appellate authority with regard to the imposition of punishment unless such discretion suffers from illegality or material procedural irregularity or that would shock the conscience of the court/tribunal. The exercise of discretion in imposition of punishment by the disciplinary authority or appellate authority is dependent on host of factors such as**

gravity of misconduct, past conduct, the nature of duties assigned to the delinquent, responsibility of the position that the delinquent holds, previous penalty, if any, and the discipline required to be maintained in the department or establishment he works. Ordinarily the court or the tribunal would not substitute its opinion on reappraisal of facts.

21. **Hon'ble Apex Court in (2011) 1 Supreme Court Cases (L&S) 721** has observed that:

It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic enquiry, nor interfere on the ground that another view is possible on the material on record. If the inquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, the courts will not interfere with findings of fact recorded in departmental inquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or findings, on the material on record. The courts will however interfere with the findings in disciplinary matters, if principles of natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, mala fide or based on extraneous considerations.

22. In the light of the aforesaid provisions, the punishment is held not as shockingly disproportionate to the charge warranting interference by this Tribunal. **Additional. Issue No.2 is decided accordingly.**

23. On the basis of the findings recorded above, the workman is held entitled to no relief. **Additional Issue No.3 is answered accordingly.**

24. On the basis of the above discussion, following award is passed:-

- A. **The action of the management of the Sohagpur Area of SECL in terminating the services of Shri Shiv Patel, workman, is held legal and justified."**
- B. **The workman is held entitled to no relief.**
- C. **No order as to costs.**

25. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 23 जुलाई, 2021

**का.आ. 494.**—औद्योगिक विवाद अधिनियम, 1947 का 14 की धारा 17 के अनुसरण में केन्द्रीय सरकार मध्य बिहार ग्रामीण बैंक प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2 धनबाद के पंचाट (संदर्भ संख्या 64/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.07.2021 प्राप्त हुआ था।

[सं. एल-12011/86/2014-आई आर (बी-1)]

डी. गुहा, अवर सचिव

New Delhi, the 23th July, 2021

**S.O. 494.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 64/2014) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court No-2, Dhanbad* as shown in the Annexure, in the industrial dispute between the management of Madhya Bihar Gramin Bank and their workmen, received by the Central Government on 23.07.2021.

[No. L-12011/86/2014-IR(B-1)]

D. GUHA, Under Secy.

**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD****PRESENT** : Dr. S. K.Thakur, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act., 1947

**REFERENCE NO 64 OF 2014****PARTIES:**

The President ,  
Bihar provincial Bank Employees Association,  
Saboo Complex, Exhibition Road,  
Patna (BIHAR)

**Vs.**

The Chairman,  
Madhya Bihar Gramin Bank,  
H.Q: Meena Plaza, South of Museum  
Patna Bihar

**Order No. L-12011/86/2014-IR(B-I) dt.27.11.2014****APPEARANCES :**

On behalf of the workman/Union : None

On behalf of the Management : Mr. S. S. Thakur, Asstt.Manager (Law)

**State : Bihar****Industry : Banking****Dated, Dhanbad, the 18<sup>th</sup> February, 2021****AWARD**

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their **Order No. L-12011/86/2014IR (B-I) dt.27.11.2014.**

**SCHEDULE**

“Whether the action of the management of Madhya Bihar Gramin Bank to carry out a defective enquiry in violation of Natural Justice is correct? If not, what relief the workman is entitled to?”

On receipt of the **Order No. L-12011/86/2014-IR-(B-I) dt.27.11.2014.** of the reference from the Government of India, Ministry of Labour & Employment, New Delhi for adjudication of the dispute, it was registered as Reference case No. 64 of 2014 on 10.12.2014 and accordingly an order to that effect was passed to issue notices through the Registered Post to the parties concerned, directing them to appear before the Tribunal on the date fixed and to file their written statements along with the relevant documents. In pursuance of the said order, notices by the Registered Post were sent to the parties concerned.

2. The final hearing of the case was posted on 18.1.2021 with regard to taking up the issue of filing Written Statement–cum Rejoinder by the Sponsoring Union/workman side. Heard submission of the Management side. None from Sponsoring Union nor the petitioner was reported to be present on date. The O.P./Management was represented by Mr. Santosh Sharan Thakur, Asstt. Manager, Dakshin Bihar Gramin Bank, Patna. Status of the case represents the subject matter is rolling over filing of Written Statement of Claim/rejoinder on the part of the Sponsoring Union/workman. Till date, there are no signs of any progress in the hearings consistently scheduled/rescheduled to the apathy of the workman/union. Till now the workman/union has neither been able to register his presence nor has he filed his written claim (W.S.) to the Tribunal or the O.P./Management.

3. The proceedings seem to have not taken place during the entire hearing spanning over six years or more as the Union/workman was not at all diligent to proceed with case for adjudication. The case was registered on 10.12.2014 came into existence as Reference No. 64/2014 with issuance of notice dated (for appearance) 12.01.2015, 03.06.2019, 01.10.2019 and finally on 31.12.2020 for filing much awaited Written Statement of Claim with relevant documents, list of reliance and witnesses with exchanged copy of such statement to each other of the opposite parties involved in this dispute under rule 10(B) of the Industrial Disputes (Central) Rules, 1957 but they did not do anything in terms of the notices. Since the case was originating from Bihar State,

taking this aspect in account, the Industrial dispute was predominately held at Camp Court Patna to give contesting near to doorstep . It is also pertinent to mention here that the petitioner/Sponsoring Union is well versed about fact of dispute in case of non-appearance on their part

4. The Instant case matter concerns a dispute relating to alleged defective enquiry so conducted by the Management of the Bank in violation of natural justice, thereby seeking relief the workman is entitled for if the action is declared unjust without disclosing the name of the workman .

5. This case went through the short adjournment on 02.03.2015, 21.04.2015, 14.05.2015, 25.05.2016, 19.07.2016, 03.11.2016 27.06.2019, 30.10.2019 and finally on 18.01.2021 as situation of the case warrants so. In other words the Union /Petitioner has already exhausted all legal remedial avenues. What transpires from record and the materials on ground that issue of filing Written Statement of claim by the Union/workman in the ibid Matter was never given due consideration by them as the matter has been lying pending since long as dates back 2014 with no action from the petitioner or the Union.

6. On the last and final conclusive day (18.01.2021) neither any Representative nor any one has appeared and it clearly points disinterestedness on behalf of the Petitioner. The Industrial Dispute between them has therefore ceased and they have abandoned this case and the aforesaid constitutes as non-existent in the instant case which is liable to be disposed of forthwith. The hearing fixed on 30.10.2019 responding to prayer of the O.P./Management Representative seeking for closure of the said I.D. on the ground of non-submission of WS till date by Union/workman, the Tribunal issued direction to the Union to file Written Statement of claim positively within one month, in default, order will be passed in accordance with law. With such directive the case subject stood adjourned with posting of next and final date on 18.01.2021 but they against failed to appear .Even then also the Union/workman has neither been able to register his presence nor has he provided copy of his Claims.

7. Considering the non-inclination, gesture and conduct of the Sponsoring Union/workman and materials on record and that adjudication is pending from 2016, the Tribunal finds no reason to continue the proceedings. Since the indifference of the workman/Sponsoring Union is clear that the workman is not interested in the dispute as the petitioner/union is no more interested to proceed with this adjudication and further adjournment will be nothing but abuse of the process and time. The proceedings of the case never took place. The Industrial Dispute between the parties to this case appears to have lost its merits or the footing on which issue has been raised. The dispute is thus disposed of accordingly as the Industrial Dispute by and between the parties is no more and as being treated as non-existent .The entire proceedings stand disposed of as the workman no longer needs the grievance to be redressed from the Management and the Award with no relief, whatsoever.

Dr. S. K.THAKUR, Presiding Officer